RNI No. **KARBIL/2001/47147**

ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರ

ಅಧಿಕೃತವಾಗಿ ಪ್ರಕಟಿಸಲಾದುದು

ಸಂಪುಟ ೧೪೮ **Volume 148**	ಬೆಂಗಳೂರು, ಗುರುವಾರ, ಫೆಬ್ರವರಿ ೧೪, ೨೦೧೩ (ಮಾಘ ೨೫, ಶಕ ವರ್ಷ ೧೯೩೪) **Bangalore, Thursday, February 14, 2013 (Magha 25, Shaka Varsha 1934)**	ಸಂಚಿಕೆ ೭ **Issue 7**

ಭಾಗ – ೪

ಕೇಂದ್ರದ ವಿಧೇಯಕಗಳು ಮತ್ತು ಅವುಗಳ ಮೇಲೆ ಪರಿಶೀಲನಾ ಸಮಿತಿಯ ವರದಿಗಳು, ಕೇಂದ್ರದ ಅಧಿನಿಯಮಗಳು ಮತ್ತು ಅಧ್ಯಾದೇಶಗಳು, ಕೇಂದ್ರ ಸರ್ಕಾರದವರು ಹೊರಡಿಸಿದ ಸಾಮಾನ್ಯ ಶಾಸನಬದ್ಧ ನಿಯಮಗಳು ಮತ್ತು ಶಾಸನಬದ್ಧ ಆದೇಶಗಳು ಮತ್ತು ರಾಷ್ಟ್ರಪತಿಯವರಿಂದ ರಚಿತವಾಗಿ ರಾಜ್ಯ ಸರ್ಕಾರದವರಿಂದ ಪುನಃ ಪ್ರಕಟವಾದ ಆದೇಶಗಳು

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ
ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 68 ಕೇಶಾಪ್ರ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 15–11–2012.

2012ನೇ ಸಾಲಿನ 7–8–2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(i) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R. 619 (E)

ದಿನಾಂಕ : 7–8–2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF COMMERCE AND INDUSTRY

(Department of Industrial Policy and Promotion)

NOTIFICATION

New Delhi, the 7th August, 2012

G.S.R. 619(E).- In exercise of the powers conferred by section 27A of the Boilers Act, 1923 (5 of 1923), read with rules 3,4,5 and 6 of the Central Boilers Board (Nomination of Members) Rules, 2008 (hereinafter referred to as the said rules) and in supersession of notification of the Government of India in the Ministry of Commerce and Industry number G.S.R. 39, dated the 25th March, 2009, published in the Gazette of India, Part II, Section 3, Sub-section (i), except as respects things done or omitted to be done before such supersession, the Central Government hereby constitutes a Board to be called the Central Boilers Board consisting of the following persons for a period of three years from the date of publication of this notification in the Official Gazette, namely :-

1.	Secretary to the Government of India, Ministry of Commerce and Industry, Department of Industrial Policy and Promotion, Udyog Bhavan, New Delhi-110 107 (Nominated under rule 3 of the said rules)	Chairman, ex-officio
2.	Chief Inspector of Boilers, Government of National Capital Territory of Delhi (Nominated under rule 5(i) of the said rules)	Member

3.	Director of Boilers, Plot No. B-5, H.No. 2-2-12/I/D to 1 Durgbai Deshmukh Colony, Shivam Road, Hyderabad-500007 Andhra Pradesh (Nominated under rule 5(i) of the said rules)	Member
4.	Chief Inspector of Boilers, G.E. Road, Amapara, P.O. Vivekanand Ashram, Raipur-492001 Chhattisgarh (Nominated under rule 5(i) of the said rules)	Member
5.	Chief Inspector of Boilers, Haryana SCO-20 1st Floor, Sector 7, Madhya Marg, Chandigarh-160019 (Nominated under rule 5(i) of the said rules)	Member
6.	Shri T.G. Manjunatha, Joint Director of Boilers, Department of Factories, Boilers, Industrial Safety and Health, Room No. 222, Karmika Bhavan, Bannergatta Road, Bangalore-560029 Karnataka (Nominated under rule 5(i) of the said rules)	Member
7.	Shri Abdul Nazar K. Joint Director of Factories and Boilers, CHEMREC Building, Opposite Regional Analytical Laboratory, Kakkanad, Kochi-30 Kerala (Nominated under rule 5(i) of the said rules)	Member
8.	Director of Boilers, Udyog Bhawan, Grand Trunk Road, Sarvodya Nagar, Kanpur-208002 Uttar Pradesh (Nominated under rule 5(i) of the said rules)	Member
9.	Chief Inspector of Boilers, Lalmati, Guwahati-781029 Assam (Nominated under rule 5(i) of the said rules)	Member
10.	Director of Boilers, 60-Baxi Bagh, (Old Subayat Building), Indore-452001 Madhya Pradesh (Nominated under rule 5(i) of the said rules)	Member
11.	Director of Boilers, Opposite All India Radio Station, Jalandhar, Punjab (Nominated under rule 5(i) of the said rules)	Member
12.	Shri. R.K. Singh, Deputy Director of Factories and Boilers Government of Uttrakhand, Haldwani (Nanital) Uttarakhand. (Nominated under rule 5(i) of the said rules)	Member
13.	Chief Inspector of Factories and Boilers, 6-C, Jhalana Institutional Area, Behind Commerce College, Jaipur-302004 Rajasthan (Nominated under rule 5(i) of the said rules)	Member
14.	Director of Steam Boilers, Kamgar Bhawan, 7th Floor, Plot No. C-20, Block “E” Bandra Kurla Complex, Bandra (E) Mumbai-400051 Maharashtra (Nominated under rule 5(i) of the said rules)	Member
15.	Director of Boilers, First Floor (North Wing), P.W.D. Office Compound Chepauk, Chennai-600005 Tamil Nadu. (Nominated under rule 5(i) of the said rules)	Member
16.	Director of Boilers, 1, K.S. Roy Road, New Secretariat Building, 8th Floor, Kolkata-700001 West Bengal (Nominated under rule 5(i) of the said rules)	Member
17.	Sh. Takhe Tamo, Inspector of Factories and Boilers, Directorate of Industries, Government of Arunachal Pradesh, Udyog Sadan ‘C’ Sector Itanagar-791111 Arunachal Pradesh (Nominated under rule 5(i) of the said rules)	Member
18.	Chief Inspector of Boilers, Combined Labour Building, Bailey Road, Patna-800021, Bihar (Nominated under rule 5(i) of the said rules)	Member
19.	Chief Inspector of Factories and Boilers, Institute of Safety, Occupational Health and Environment, Altinho, Panaji-403001, Goa (Nominated under rule 5(i) of the said rules)	Member

20.	Director of Boilers, 4th Floor, Shram Bhavan, Rustom Cama Marg, Khanpur, Ahmedabad-380001 Gujarat (Nominated under rule 5(i) of the said rules)	Member
21.	Chief Inspector of Boilers, Udyog Bhawan, Bemloe, Shimla-171001, Himachal Pradesh (Nominated under rule 5(i) of the said rules)	Member
22.	Chief Inspector of Factories and Boilers-cum-Director (Commerce and Industries), Department of Commerce and Industries, Secretariat Building, P.O. Lamphel, Imphal, Manipur (Nominated under rule 5(i) of the said rules)	Member
23.	Chief Inspector of Boilers, Dhaiya Road, Baratand, Dhanbad-826001 Jharkhand (Nominated under rule 5(i) of the said rules)	Member
24.	Shri P. Das, Deputy Chief Inspector of Boilers and Factories, Room No. 119, MATI Building Annexe, Additional Secretariat Building, Shillong-793001 Meghalaya. (Nominated under rule 5(i) of the said rules)	Member
25.	Chief Inspector of Boilers, Government of Mizoram Industries Department, Aizawal, Mizoram (Nominated under rule 5(i) of the said rules)	Member
26.	Director of Factories and Boilers, Unit III, Kharvel Nagar, Bhubaneswar-751001 Odisha (Nominated under rule 5(i) of the said rules)	Member
27.	Shri L. Nungshiyanger Aier, Joint Labour Commissioner, Kohima-797001 Nagaland. (Nominated under rule 5(i) of the said rules)	Member
28.	Director, Commerce and Industies Department, Government of Sikkim, Gangtok-737101 Sikkim (Nominated under rule 5(i) of the said rules)	Member
29.	Chief Inspector of Factories and Biolers, Factories and Boilers Organization, Suraksha Bhavan, Pandit Nehru Complex Gorkhabasti, P.O. Kunjaban-799006 Agartala Tripura (Nominated under rule 5(i) of the said rules)	Member
30.	Shri K.K. Tiwari, Industrial Advisor, Deptt. Of Heavy Industry Udyog Bhawan, New Delhi-110011 (Nominated under rule 5(ii)(a) of the said rules)	Member
31.	Shri Sujan Pal, General Manager (Quality), Bokaro Steel Plant, Bokaro Steel City Bokaro-827001 Jharkhand (Nominated under rule 5(ii)(b) of the said rules)	Member
32.	Shri Hirak Dutta, Executive Director, Oil Industry Safety Directorate, Ministry of Petroleum and Natural Gas, 8th Floor, OIDB Bhavan, Plot No. 2, Sector-73, Noida-201301 Uttar Pradesh (Nominated under rule 5(ii)(c) of the said rules)	Member
33.	Sh. H. Vishvanathan, Director (Safety), Directorate General of Factory Advice Service and Labour Institute, Ministry of Labour and Employment, Central Labour Institute's Building, N.S. Mankikar Marg. SION, Mumbai-400022 (Nominated under rule 5(ii)(d) of the said rules)	Member
34.	Shri K.L. Rao, Director (ME), Office of the Development Commissioner (MSME) Ministry of Micro, Small and Medium Enterprises Nirman Bhawan, New Delhi-110011. (Nominated under rule 5(ii)(e) of the said rules)	Member
35.	Sh. S.K. Thakur, Chief Engineer In-charge (TETD), Central Electricity Authority, Sewa Bhawan, R.K. Puram, New Delhi-110066 (Nominated under rule 5(ii)(f) of the said rules)	Member

36.	Sh. P.K. Gambhir, Scientist-G & Chief (Standardisation), Bureau of Indian Standards 9, B.S. Zafar Marg, New Delhi-110002 (Nominated under rule 5(ii)(g) of the said rules)	Member
37.	Chief Inspector of Factories and Boilers, Daman and Diu & Dadar and Nagar Haveli, Department of Labour and Employment, Daman-396210 (Nominated under rule 5(ii)(h) of the said rules)	Member
38.	Shri Kishore Tapaswi, General Manager, Boiler Research and Development and Engineering, Forbes Marshal Private Limited, Confederation of Indian Industry, The Mantosh Sondhi Centre, 23, Institutional Area, Lodi Road, New Delhi-110003 (Nominated under rule 5(ii)(i) of the said rules)	Member
39.	Shri M.S. Walia, President, Indian Boilers Manufacturers Association, 701-C Poonam Chambers, Dr. Annie Basant Road, Worli Mumbai-400018 (Nominated under Rule 5(ii)(j) of the said rules)	Member
40.	Shri. B. Pattabhiraman, President, Tamilnadu Boilers and Components Manufacturers and Users Association, D-99, Developed Plots Estate, Thuvakudi, Tiruchirapalli-620015 (Nominated under rule 5(ii)(k) of the said rules)	Member
41.	Shri. S. Dharmalingam, General Manager (Quality), Bharat Heavy Electricals Limited, Tiruchirappalli-620 014 (Nominated under rule 5(ii)(l) of the said rules)	Member
42.	Shri. S. Vankataramana, Senior Manager (Quality Assurance and Control), Thermax Limited, Plot No. 21/1,2,3, GIDC, Manjusar, Taluka Salvi, Vadodara-391775 (Norminated under rule 5(ii)(l) of the said rules)	Member
43.	Shri. K. Thambithurai, Director, Cethar Limited, 4, Dindigul Road, Tiruchirappalli-620001 (Nominated under rule 5(ii)(l) of the said rules)	Member
44.	Shri. V. Ramakrishnan, Managing Director, Veesons Energy Systems Private Ltd., C-14/2, Industrial Estate, Tiruchirappalli-620015 (Nominated under rule 5(ii)(l) of the said rules)	Member
45.	Dr. A. Raja, Additional General Manager, Welding Research Institute, BHEL, Tiruchirapalli-620014 (Nominated under rule 5(ii)(m) of the said rules)	Member
46.	Shri. Awadhesh Kumar Shukla, Senior Principal Scientist, CSIR-Central Mechanical Engineering Research Institute, Mahatma Gandhi Avenue, Durgapur-713209 (Nominated under rule 5(ii)(m) of the said rules)	Member
47.	Shri. Krishna Kumar Gupta, Senior Vice President and Business Head (QS), Tata Projects Limited, Quality Service Division, 2nd Floor, Varun Towers-1, Begumpet, Hyderabad-500016 (Nominated under rule 5(ii)(n) of the said rules)	Member
48.	Shri MVK Kumar, Executive Director, Engineers India Limited, Great Eastern Chambers, 5th Floor, Plot No. 28, Sector 11, CBD Belapur Navi Mumbai-400614 (Nominated under rule 5(ii)(n) of the said rules)	Member
49.	Shri. Mukesh Kumar Sinha, Assistant Vice President (Engineering), Jindal Power Limited, 2nd Floor, DCM Building, Plot NO. 94, Sector-32, Gurgaon-122001 Haryana (Nominated under rule 5(ii)(o) of the said rules)	Member
50.	Sh. D.K. Dubey, General Manager (PE.Mech/SG & WS), NTPC Limited, Engineering Office Complex, Plot NO. A-8A, Sector 24, Post Box, No. 13 Noida-201307 (Nominated under rule 5(ii)(o) of the said rules)	Member

51.	Shri. V.K. Reddy, President (Operations), Reliance Power Limited, Dhirubhai Ambani Knowledge City, "I" Block, Thane Belapur Road, Koparkhairane Navi Mumbai-400710 (Nominated under under rule 5(ii)(o) of the said rules)	Member
52.	Shri S.R. Babu, Vice President, Project Technical Services (PTS)-Engineering, GMR Energy Limited, Cabin No. 113, 9th Floor, IBC Knowledge Park, Bannerghatta Road, Bengaluru-560029 (Nominated under rule 5(ii)(o) of the said rules)	Member
53.	Shri. A.K. Asthana, Senior Technical Expert GIZ, Bureau of Energy Efficiency, 4th Floor, Sewa Bhawan, R.K. Puram, Sector-1, New Delhi-110066 (Nominated under rule 5(ii)(p) of the said rules)	Member
54.	Shri Farook Kassim, Vice President-Technical Services, Tube Products of India, Post Box No. 4, Avadi Chennai-600054 (Nominated under rule 5(ii)(p) of the said rules)	Member
55.	Sh. C.K. Nayar, Technical Manager (Energy) Lloyd's Register Asia, C-27, Qutub Institutional Area New Delhi-110016 (Nominated under rule 5(ii)(p) of the said rules)	Member
56.	Sh. K.C. Rao, Joint General Manager (Engineering) L&T-MHI Boilers Private Limited, 12/4, Delhi-Mathura Road, Near Sarai Khawaja Chowk, Faridabad-121003 (Nominated under rule 5(ii)(p) of the said rules)	Member
57.	Shri R. Haridoss, President, Indian Boiler Repairers Association, No. 42, L.B. Road, Adyar, Chennai-600020 (Nominated under rule 5(ii)(p) of the said rules)	Member
58.	Technical Adviser (Boilers), Ministry of Commerce and Industry, Department of Industrial Policy and Promotion, Udyog Bhawan, New Delhi-110107 (Nominated under rule 4 of the said rules)	Ex-officio-Member-Secretary

(F.No.1(1)2011-Boilers)

T.S.G. NARAYANNEN,
Technical Adviser (Boilers)

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್.ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 95

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 64 ಕೇನಿಪ್ರ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 15ನೇ ನವೆಂಬರ್, 2012.

2012ನೇ ಸಾಲಿನ 30-05-2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ-II ಸೆಕ್ಷನ್ 3(i) ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R. 408 (E)

ದಿನಾಂಕ : 30-05-2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF URBAN DEVELOPMENT

NOTIFICATION

New Delhi, the 30th May, 2012

G.S.R. 408(E) :-In exercise of the powers conferred by section (5) of section 4 of the Metro Railways (Construction of Works) Act, 1978 (33 of 1978), the Central Government hereby makes the following rules with respect to the procedure in regard to the transaction of the business of the Advisory Board for Metro Railways, namely:-

1. **Short title and commencement.-** (1). These rules may be called "The Advisory Board for Metro Railways (Transaction of Business), Rules, 2012.

(2).They shall come into force on the date of their publication in the Official Gazette.

2. **Definitions.-** In these rules, unless the context is otherwise requires,-

(a) "The Act" means the Metro Railways (Construction of works) Act, 1978;
(b) "Board" means the Advisory Board for Metro Railways constituted under section 4 of the Act;
(c) "Chairman" means the Chairman of the Advisory Board for Metro Railways;
(d) "Member" means a member of the Advisory Board for Metro Railways;

3. **Meetings.-** The Chairman may, whenever he thinks fit and shall within fifteen days of the receipt of a requisition in writing from not less than one – half of the members, call a meeting of the Board.

4. **Notice of the Meetings.-** (1) The Chairman shall decide the date, time and place of every meeting.

(2) Ordinarily, notice of not less than fifteen days from the date of posting thereof shall be given to every member for each meeting of the Board.

(3) A list of business proposed to be transacted at the meeting shall be attached with the notice.

(4) If it is necessary to convene and emergent meeting, at least seven days notice shall be given to every member.

5. **Chairman of the meeting.-** (1) The Chairman shall preside at the meetings and in the event of the absence of the Chariman, the members present may elect one amongst themselves to preside at the meeting.

(2) The Chairman shall be authorised to determine the frequency and place of its meetings and procedure in regard to transaction of its business.

6. **Quorum.-** No business shll be transacted at any meeting unless at least **one-third** members are present:

Provided that if at any meeting less than on-third members are present, the Chairman may adjourn the meeting for an hour or so, as considered approriate, and it shall thereupon be lawful to dispose of the business at such adjourned meeting irrespective of the number of members attending it.

7. **Disposal of business.-** Any business which requires consideration by the Board shall be considered at a meeting thereof:

Provided that the Chairman may, if he thinks fit, direct that the necessary papers may be referred for opinion to all members:

Provided further that the decision on any question which is so referred shall be acted upon only if it is supported by not less than a two – thirds majority of the members of the Board and where there is no majority or where the Chairman so decides, the question shall be considered at a duly convened meeting of the Board.

8. **Method of voting.-** Voting shall ordinarily be by show of hands and if any member asks for voting by ballot, or if the Chairman so decides, the voting shall be by secret ballot and shall be held in such manner as the Chairman may desire.

9. **Decision by majority.-** Every question at a meeting of the Board shall be decided by a majority of the votes of the members present and voting:

Provided that in the case of equality of votes, the Chairman or the person presiding shall have a casting vote.

10. **Proceedings of the meeting.-** (1) The proceedings of each meeting showing, inter alia, the names of the members present thereat shall be forwarded to each member of the Board, to the Central Government and to all concerned Metro Railway Corporation or Metro Rail Limited where the Act is in force, as soon after the meeting as possible and, in any case, not less than seven days before the next meeting.

(2) The minutes of each meeting shall be confirmed with such modifications as may be considered necessary at the next meeting.

[No.K-14011/5/2012-MRTS(Coord)]
DEEN DAYAL, Under.Secy.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆದೇಶಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್.ಆಂಜಿನಿ,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 96

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 65 ಕೇನಿಪ್ರ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 15ನೇ ನವೆಂಬರ್ 2012.

2012ನೇ ಸಾಲಿನ 28–06–2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(i)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ G.S.R. 510(E) ದಿನಾಂಕ: 28–06–2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF POWER

NOTIFICATION

New Delhi, the 28th June, 2012

G.S.R. 510 (E).- In exercise of the powers conferred by sub-section (1) of section 56 and· clauses (r) and (v) of sub-section (2) of section 56, sub-section (2) of section 31 and section 31 A of the Energy Conservation Act, 2001 (52 of 2001), read with clause (i) of sub-section (2) of section 120 of the Electricity Act, 2003 (36 of 2003), the Central Government hereby makes the following rules, namely:- .

CHAPTER-1

PRELIMINARY

1. Short title and commencement.- (1)These rules may be called the Appellate Tribunal for Energy Conservation (Procedure, Form, Fee and Record of Proceedings) Rules, 2012.

1.

(2) They shall come into force-on the date of their publication in the Official Gazette.

2. Definitions. (1) In these rules, unless the context otherwise requires,-

(a) "Act" means. the Energy Conservation Act; 2001 (52 of 2001);

(b) "Appeal" means an appeal preferred under sub-section (1) of section 31;

(c) " Appellate Tribunal" means the Appellate Tribunal for Energy Conservation referred to in section 30 of the Act;

(d) "Legal practitioner" means an advocate who is entitled to practice the profession of law under the Advocates Act, 1961 (25 of 1961);

(e) "interlocutory application" means an application in any appeal or original petition in the proceedings already instituted in the Appellate Tribunal, but not being a proceeding for execution of the order or direction of the Appellate Tribunal;

(f) "Registrar" means the Registrar of the Appellate Tribunal and includes any other officer or staff member of the said Appellate Tribunal to whom the powers and functions of the Registrar may be delegated or assigned or who is authorised to act as such, by the Chairperson of the Appellate Tribunal from time to time;

(g) "Registry" means the Registry of the Appellate Tribunal;

(h) "section" means a section of the Act.

(i) "Schedule" means the Schedule annexed to these rules.

(2) Words and expressions used herein and not defined, but defined in the Act, shall have the meanings respectively assigned to them in the Act. –

3. Computation of time period- Where a period is prescribed by the Act and these rules or under any other law or is fixed by the Appellate Tribunal for doing any act, in computing the time, the day from which the said period is to be reckoned shall be excluded, and if the last day expires on a day when the office of the Appellate Tribunal is closed, that day and any succeeding days on which the Appellate Tribunal remains closed shall also be excluded.

4. Forms.- The forms specified in these rules shall, with such modifications or variations as the circumstances of each case may require, be used for the purpose mentioned therein and where no such form is specifled to cover a contingency, a form as may be approved by the Registrar shall be used.

5. Format of order, direction, rule, etc.- Every rule, direction, order, summons, warrant or other mandatory process shall be issued In the name of the Chairperson and shall be signed by the Registrar or any other officer specifically authorised in that behalf by the Chairperson, with the day, month and year of signing and shall be sealed with the seal of the Appellate Tribunal.

6. Official seal of Appellate Tribunal.- The official seal of the Appellate Tribunal shall be such, as the Chairperson may from time to time specify and shall be in the custody of the Registrar.

7. Custody of the records.- The Registrar shall have custody of the records of the Appellate Tribunal and no record or document filed in any cause or matter shall be allowed to be taken out of the custody of the Appellate Tribunal without its leave.

Provided that an official of the Appellate Tribunal may remove any official paper or record for official purposes from the Appellate Tribunal with the prior written approval of the Registrar.

8. Sitting hours of Appellate Tribunal.- The sitting hours of the Appellate Tribunal shall ordinarily be from 10-.30 AM. to 1.15 P.M. and from 2.15 P.M. to 5.00 ·P.M. subject to any order made by the Chairperson and this shall not disable the Bench of the Appellate Tribunal to extend its siting as it deems fit.

9. Working hours of Appellate Tribunal.- (1) The office of the Appellate Tribunal shall remain open on all working days from 10.00 A.M. to 5:30 P.M.

(2) The filing counter of the Registry shall be open on all working days from 10.30 AM to 5.00 P.M.

10. Calendar.- The Calendar of days of working of the Appellate Tribunal in a year shall be as decided by the Chairperson and Members of the Appellate Tribunal.

11. Motion cases.- All urgent matters filed before 12 noon shall be listed, before the Appellate Tribunal on the following working day, if it is complete in all respects as provided in these rules and in exceptional cases, it may be received after 12 noon but before 3.00 P.M. for listing on the following day, with the permission of the Appellate Tribunal or its Chairperson.

12. Power to exempt- The Appellate Tribunal may on sufficient cause being shown, exempt the parties from compliance with any requirement of these rules and may give such directions in matters of practice and procedure, as it may consider just and expedient on the application moved in this behalf to render substantial justice.

13. Power to extend time.- The Appellate Tribunal may extend the time appointed by these rules or fixed by any order, for doing any act or taking any proceeding, upon such terms, if any, as the justice of the case may require, and any extension may be ordered, although the application these for is not made until after the expiration of the time appointed or allowed.

CHAPTER II

POWERS OF REGISTRAR

14. Powers and functions of Registrar.- The Registrar shall have the following powers and functions, namely:-

a) registration of appeals, petitions and applications;

b) to receive applications for amendment of appeal or petition or application or subsequent proceedings;

c) to receive applications for fresh summons or notices and regarding -services thereof;

d) to receive applications for fresh summons or notice and for short date summons and notices;

e) to receive applications for substituted service of summons or notices;

f) to receive applications for seeking orders concerning the admission and inspection of. documents;

g) transmission of a direction or order to the civil court as directed by the Appellate Tribunal with the specified certificate(s) for execution; and

h) such other incidental matters as the Chairperson of the Appellate Tribunal may direct from time to time.

15. Power of adjournment.- All adjournments shall normally be sought before the concerned Bench in court and in extraordinary circumstances, the Registrar may, if so directed by the Appellate Tribunal in chambers, shall at any time adjourn any matter and lay the same before the Appellate Tribunal in chambers.

16. Delegation of powers by Chairperson of the Appellate Tribunal.- The Chairperson of Appellate Tribunal may assign or delegate to a Deputy Registrar or to any other officer all or some of the functions required by these rules to be exercised by the Registrar.

CHAPTER III

PROCEDURE FOR INSTITUTION OF PROCEEDINGS, PETITIONS, APPEALS, ETC.

17. Procedure for appeal.- (I) Every appeal, petition, application, caveat petition, objection or counter presented to the AppellateTribunal shall be in English and in case it is in some other Indian language, it shall be accompanied by a copy translated in English and shall be fairly and legibly type written, lithographed or printed in double space on one side of standard petition paper with an inner margin of about four centimeters width on top and with a right margin of two and a half centimeters (2.5 cms), and left margin of five centimeters (5 cm), duly paginated, indexed and stitched together in paper book form. '

(2) The cause title shall state "In the Appellate Tribunal For Energy Conservation" and shall specify the jurisdiction, Appellate, Original or Special Original respectively under sub-section (I) of section 31 and section 31 A of the Act read with section 121 of the Electricity Act, 2003 in which it is presented and also set out the proceedings or order of the authority against which it is preferred.

(3) Appeal, petition, application, counter, and objections shall be divided into paragraphs and shall be numbered consecutively and each paragraph shall contain as nearly as may be, a separate fact or allegation or point.

(4) Where Saka or other dates are used, corresponding dates of Gregorian calendar shall also be given.

(5) Full name, parentage, description of each party and address and in case a party sues or is being sued in. a representative character, shall also be set out at the beginning of the appeal, or petition or application and need not be repeated in the subsequent pleadings in the same appeal or petition or application.

(6) The names of parties shall be numbered consecutively and a separate line should be allotted to the name and description of each party and these numbers shall not be changed and in the event of the death of a party .during the pendency of the appeal or petition or matter, his legal heirs or representative, as the case may be, if more than one shall be shown by sub-numbers and where fresh parties are brought in, they may be numbered consecutively in the particular category, in which they are brought in.

(7) Every pleading shall state immediately after the cause title, the provision of law under which it is preferred.

18. Particulars to be set out in address for service.- The address for service of summons shall be filed with every appeal, petition, application or caveat on behalf of a party and shall, as far as possible, contain the following particulars, namely:-

(a) name of the road, street, lane and Municipal Division or Ward, Municipal Door and other number of the house;

(b) name of the town or village;

(c) post office,postal district and PIN Code; and

(d) any other particular necessary to identify the addressee such as fax number, mobile number and e-mail address, if any.

19. Initialing alteration.- Every interlineation, eraser, correction or deletion in any appeal, petition, application or document shall be initialed by the party or his recognised agent or advocate presenting it.

20. Presentation of appeal or petition- (I) Every appeal, petition, caveat, interlocutory application and documents shall be presented in triplicate by the appellant, petitioner, applicant, or respondent, as the case may be, in person or by his duly authorised agent or by an advocate duly appointed in this behalf in the Form I, Form II, or Form III, as the case may be, with stipulated fee at the filing counter and non compliance of this may constitute a valid ground to refuse to entertain the same.

(2) Every appeal or petition shall be accompanied by a certified copy of the impugned order.

(3) All such documents filed in the Appellate Tribunal shall be accompanied by an index in triplicate containing their details and the amount of fee paid thereon.

(4) Sufficient number of copies of the appeal, petition or application shall be filed for service on the opposite party.

(5) In the pending matters, all applications shall be presented after serving copies thereof in advance on the opposite side or his or her advocate on record.

(6) The processing fee as specified in the Schedule, with required number of envelopes of sufficient size and notice forms as prescribed shall be filed along with memorandum of appeal.

21. Number of copies to be filed.- The appellant, petitioner, applicant or respondent shall file three authenticated copies of appeal, petition, application, counter, or objections, as the case may be, and shall deliver one copy to each of the opposite party.

22. Lodging of caveat.- (1) The respondent may lodge a caveat in triplicate in any appeal, petition or application that may be instituted before the Appellate Tribunal by paying the fee specified in the Schedule after forwarding a copy by registered post or serving the same on the expected petitioner or appellant and the caveat shall be in Form IV and contain details and particulars of orders or directions, details of authority against whose orders of directions the appeal or petition is being instituted by the expected appellant or petitioner with full address for service on other side, so that the appeal or petition could be served before the appeal, petition or interim application is taken up:

Provided that this shall not affect the jurisdiction of the Appellate Tribunal to pass interim orders in case of urgency.

(2) The caveat shall remain valid for a period of **ninety** days from the date of its filing.

23. Endorsement and verification.- At the foot of every petition, appeal or pleading there shall appear the name and signature of the advocate on record, if any, who has drawn the same and also the name of the senior advocate, who may have settled it and every appeal or petition shall be signed and verified by the party concerned in the manner provided by these rules. .

24. Translation of document.- (I) A document other than in English language intended to be used in any proceeding before the Appellate Tribunal shall be received by the Registry accompanied by a copy in English, which is agreed to by both the parties or certified to be a true translated copy by an advocate engaged on behalf of parties in the case or by any other advocate whether engaged in the case or not or if the advocate engaged in the case authenticates such certificate prepared by a translator approved for the purpose by the Registrar on payment of such charges as he may order.

(2) Appeal, petition or other .proceeding shall. not be set down-for hearing until and unless all parties confirm that all .the documents filed on which they intend to rely are in English or have been translated into English and required number of copies are filed into the Appellate Tribunal.

25. Endorsement and scrutiny of petition or appeal or document.-(I) The person in charge of the filing counter shall immediately on receipt of petition, appeal, application or document affix the date stamp of Appellate Tribunal thereon and also on the additional copies of the index and return the acknowledgement to the party and he shall also affix his initials on the stamp affixed on the first page of the copies and enter the particulars of all such documents in the register after daily filing and assign a diary number which shall be entered below the date stamp and thereafter cause it to be sent for scrutiny.

(2) If, on scrutiny, the appeal, petition, application or document is found to be defective, such document shall, after notice to the party, be returned for compliance and if there is a failure to comply within seven days from the date of return, the same shall be placed before the Registrar who may pass appropriate orders.

(3) The Registrar may for sufficient cause return the said document for rectification or amendment to the party filing the same, and for this purpose may allow to the party concerned such reasonable time as he may consider necessary or extend the time for compliance.

(4) Where the party fails to take any step for the removal of the defect within the time fixed for the same, the Registrar may, .for.reasons to be recorded in writing, decline to register the pleading or document.

26. Registration of proceedings admitted- On admission of appeal, petition, caveat or application, the same shall be numbered and registered in the register maintained in this behalf and its number shall be entered therein.

27. Ex-parte amendments.- In every appeal, petition or application, the arithmetical, grammatical, clerical and such other errors may be rectified on the orders of the Registrar without notice to parties.

28. Calling for records.- On the admission of appeal, petition or application, the Registrar shall, if so directed by the Appellate Tribunal, call for the records from the respective adjudicating officer, the Central Government, the State Government or any other authority under the Act, as the case may be, in relation to any proceedings and retransmit the same at the conclusion of the proceedings before the Appellate Tribunal or at any time.

29. Production of authorisation for and on behalf of association- Where an appeal, application petition or other proceeding purported to be instituted by or on behalf of an association, the person or persons who sign(s) or verify(ies) the same shall produce along with such application, for verification by the Registry, a true copy of the resolution of the association empowering such person(s) to do so:

Provided that the Registrar may at any time call upon the party to produce such further materials as he deems fit for satisfying himself about due authorisation:

Provided further that it shall set out the list of members for whose benefit the proceedings are instituted.

30. Interlocutory applications.- Every. interlocutory application for stay, direction, condonation of delay, exemption from production of copy of order appealed against or extension of time prayed for in pending matters shall be in specified form and the requirements specified in that behalf shall be complied with by the applicant, besides filing an affidavit supporting the application.

31. Procedure on production of defaced, torn or damaged documents.- When a document produced along with any pleading appears to be defaced, torn, or in any way damaged or otherwise its condition or appearance requires special notice, a mention regarding its condition and appearance shall be made by the party producing the same in the index of such pleading and the same shall be verified and initialed by the officer authorised to receive the same.

CHAPTER IV

CAUSE LIST

32. Preparation and publication of daily cause list- (I) The Registry shall prepare and publish on the Notice Board of the Registry before the closing of working hours on each working day the cause list for the next working day and subject to the directions of the Chairperson of the Appellate Tribunal listing of cases in the daily cause list shall be in the following order of priority, unless otherwise ordered by the concerned Bench, namely;-

(a) cases for "pronouncement of orders";

(b) cases for "clarification";

(c) cases for "admission";

(d) cases for "orders or directions";

(e) part-heard cases, latest part-heard having precedence;-' and

(f) cases posted as per numerical order or as directed by the Bench.

(2) The title of the daily cause list shall consist of the number of the appeal or petition, the day, date and time of the court sitting, court shall number and the quorum indicating the names of the Chairperson, Judicial Member and Technical Members constituting the Bench.

(3) Against the number of each case listed in the daily cause list, the following shall be shown, namely;-

(a) names of the legal practitioners appearing for both sides and setting out in brackets the rank of the parties whom they represent;

(b) names of the parties, if unrepresented, with their ranks in brackets.

(4) The objections and special directions, if any, of the Registry shall be briefly indicated in the daily cause list in remarks' column, whenever compliance is required.

33. Carry forward of cause list and adjournment of cases on account of non sitting of Bench- (I) If by reason of declaration of holiday or for any other unforeseen reason, the Bench does not function for the day, the daily cause list for that day shall, unless otherwise directed, be treated as the daily cause list for the next working day in addition to the cases already posted for that day.

(2) When the sitting of a particular Bench is cancelled for reason of inability of Member (s) of the Bench, the Registrar shall, unless otherwise directed adjourn the cases posted before that Bench to a convenient date and the adjournment, posting or directions shall be notified on the Notice Board.

CHAPTER V

RECORD OF PROCEEDINGS

34. Diaries- Diaries shall be kept by the clerk-in-charge in such form as may be specified in each appeal or petition or application, which shall be written legibly and the said diary in the main file shall contain a concise history of the appeal or petition or application, the substance of the order(s) passed thereon and in execution proceedings it shall contain a complete record of all proceedings in execution of order, direction or rule and shall be checked by the Deputy Registrar and initialed once in a fortnight.

35. Order sheet.- (l) Order sheets shall be maintained in every proceedings and shall contain all orders passed by the Appellate Tribunal from time to time.

(2) All orders passed by the Appellate Tribunal shall be in English and the same shall be signed by the Members of the Appellate Tribunal constituting the Bench:

Provided that the routine orders, such as call for the records, put up with records, adjourned and any other order as may be directed by the Member of the Appellate Tribunal shall be signed by the Court Master.

(3) The order sheet shall also contain the reference number of the appeal, petition, application, date of order and all incidental details including short cause title thereof.

36. Maintenance of court diary.- (I) The Court Master of the Bench concerned shall maintain legibly a court diary, wherein he shall record the proceedings of the court for each sitting with respect to the applications or petitions or appeals listed in the daily cause list.

(2) The matters to be recorded in the court diary shall include details as to whether the case is adjourned, or part heard or heard and disposed of or heard and orders reserved, as the case may be; along with dates of next sitting, wherever applicable.

37. Statutes or citations for reference- The parties or legal practitioners shall, before the commencement of the proceedings for the day, furnish to the Court Master a list of law journals, reports, statutes and other citations, which may be needed for reference or xerox copy of full text thereof.

38. Calling of cases in court- Subject to the orders of the Bench, the Court Master shall call the cases listed in the cause list in the serial order.

39. Regulation of court work.- (1) When the Appellate Tribunal is holding a sitting, the Deputy Registrar shall ensure that -

(a) no inconvenience or wastage of time is caused to the Bench in making available the services of Court Master or Stenographer or peon or attendant;

(b) the Court Master ensures that perfect silence is maintained in and around the court hall and no disturbance whatsoever is caused to the functioning of the Bench and that proper care is taken to maintain dignity and decorum of the court.

(2) When the Bench passes order or issues directions, the Court Master shall ensure that the records of the case along with proceedings or orders of the Bench are transmitted irnmediately to the Registry and the Registry shall verify the case records received from the Court Master with reference to the cause list and take immediate steps to communicate the directions or orders of the Bench to all concerned.

CHAPTER VI

MAINTENANCE OF REGISTERS

40. Registers to be maintained.- The following Registers shall be maintained and posted on a day to day basis by the Registry of the Appellate Tribunal by such officer or officers as the Registrar may, subject to any order of the Chairperson of the Appellate Tribunal, direct:-

(a) Register of appeals;

(b) Register of petitions;

(c) Register of original petitions;

(d) Register of original special petitions;

(e) Register of unnumbered petitions or appeals;

(f) Register of caveats lodged; and

(g) Register of interlocutory applications;

41. Arrangement of records in pending matters.- The record of appeal or petition shall be divided into the following four parts and shall be collated and maintained:-

(a) main file : (appeal or petition being kept separately);

(b) miscellaneous application file;

(c) process file; and

(d) execution file.

42. Contents of main file.-The main file shall be kept in the following order and it shall be maintained as permanent record till ordered to be destroyed under these rules'-

(a) index;

(b) order sheet; .

(c) final order or judgment;

(d) memo of appeal or petition as the case may, be together with any schedule annexed thereto;

(e) counter or reply or objection, if any;

(f) (i) oral evidence based on affidavit or proof of affidavit

(ii) evidence taken on commission; and

(iii) documentary evidence;

(g) Written arguments.

43. Contents of process file.- The process file shall contain the following items, namely:

(a) Index;

(b) powers of attorney or vakalatnama;

(c) summons and other processes and affidavits relating thereto;

(d) applications for summoning witness;

(e) letters calling records; and

(f) all other miscellaneous papers such as postal acknowledgements.

44. Execution file- The execution file shall contain the following items, namely,-

(a) index;

(b) the order sheet;

(c) the execution application;

(d) all processes and other papers connected with such execution proceedings;

(e) transmission of order to civil court, if ordered; and

(f) result of execution.

45. File for miscellaneous applications.- For all miscellaneous applications there may be only one file with a title page prefixed to it and immediately after the title page, the diary, the miscellaneous applications, supporting affidavit, the order sheet and all other documents shall be filed.

46. Destruction of record.- Record of the Appellate Tribunal, except permanent record, shall be ordered to be destroyed by the Registrar or Deputy Registrar after six years from the final conclusion of the proceedings and if any appeal is filed under section 45, the same shall be destroyed after obtaining prior order of the Chairperson of the Appellate Tribunal.

Explanation-For purpose of Rule 46 permanent record shall include order, appeal register, petition register and such other record as may be ordered to be included by the Chairperson of the Appellate Tribunal.

CHAPTER VII

SERVICE OF PROCESS, APPEARANCE OF RESPONDENTS AND OBJECTIONS

47. Issue of notice.- (I) Where notice of an appeal or petition for caveat or interlocutory application is issued by the Appellate Tribunal, copies of the same, the affidavit in support thereof and if so ordered by the Appellate Tribunal the copy of other documents filed therewith if any, shall be served along with the notice on the other side.

(2) The aforesaid copies shall show the date of presentation of the appeal or petition for caveat or interlocutory application and the name of the advocate, if any, of such party with his full address for service and the interim order, if any. made thereon.

(3) The Appellate Tribunal may order for issuing notice in appropriate cases and also permit the party concerned for service of said notice on the other side by dasti and in such case, deliver the notice to such party and it is for such party to file affidavit of service with proof.

(4) Acknowledgement before the date fixed for return of notice

48. Summons.- Whenever summons or notice is ordered by private service, the appellant or applicant or petitioner, as the case may be, unless already served on the other side in advance, shall arrange to serve the copy of all appeals or petitions or applications by registered post or courier service and file affidavit of service with its proof of acknowledgement before the date fixed for hearing.

49. Steps for issue of fresh notice- If any notice is returned un-served in the circumstances not specified in rule 47, that fact and the reason thereof shall be notified immediately on the notice board of the Registry and the applicant or petitioner or his advocate shall within seven days from the date of such notification take steps to serve the notice afresh.

50 Consequence of failure to take steps for issue of fresh notice.- Where, after a summon has been issued to the other side and returned un- served and the applicant or petitioner or appellant, as the case may be, fails to take necessary steps within a period as ordered by the Appellate.Tribunal from the date of return of the notice on the respondent(s), the Registrar shall post the case before the Bench for further directions or for dismissal for non prosecution.

51. Entries regarding service of notice or process.- The judicial branch of the Registry shall record in the column in the order sheet "Notes of the Registry", the details regarding completion of service of notice on the respondents, such as date of issue of notice, date of service, date of return of notice, if un served, steps taken for issuing fresh notice and date of completion of services.

52. Default of appearance of respondent and consequences.- Where the respondent, despite effective service of summons or notice on him does not appear before the Appellate Tribunal on the date fixed for hearing, the Appellate Tribunal may proceed to hear the appeal or application or petition ex parte and pass final order on merits:

Provided that the Appellate Tribunal may seek the assistance of any counsel as it deems fit in case the matter involves intricate and substantial question of law having wide ramifications.

53. Filing of objections by respondent, form and consequences.- (I) The respondent, if so directed, shall file objections or counter within the time allowed by the Appellate Tribunal and the objections or counter shall be verified as an appeal or petition and wherever new facts are sought to be introduced with the leave of the Appellate Tribunal for the first time, the same shall be affirmed by a supporting affidavit.

(2) The respondent, if permitted to file-objections or counter in any proceeding shall also file three copies thereof after serving copies of the same on the appellant or petitioner or their advocate on record or authorised representative, as the case may be.

54. Sitting of vacation Bench and posting of cases.- (1) When the Appellate Tribunal is closed for vacation, the vacation Bench shall sit on such days as may be specified by Chairperson of the Appellate Tribunal or in his absence, the senior most Member available.

(2) During the vacation, only the matters which are required to be immediately or promptly dealt with, shall be received in the Registry and the Registrar on being satisfied about the urgency, shall order registration and posting of such cases.

(3) Inspection of records may be permitted during the vacation according to rules 57 to 62

(4) Certified copies may also be supplied during the vacation, under these rules.

(5) Nothing in this rule shall disable the vacation Bench from taking the appeal or petition for final hearing, if so directed by the Bench.

CHAPTER VIII

FEE ON PETITION, APPEAL, PROCESS FEE AND A WARD OF COSTS

55. Fee payable on appeal or petition, etc.- (I) Fee for filing appeal or petition under sub-section(2) of section 31 or interlocutory application, application, enclosures or annexures, lodging caveat and process fee shall be, as specified in the Schedule of fee annexed to these rules.

(2) The fee and process fee shall be deposited by way of demand draft to be drawn in favour of the Pay and Accounts Officer, Ministry of Power, payable at New Delhi.

(3) The Appellate Tribunal may, to advance the cause of justice and in suitable cases, waive payment of such fee or portion thereof, taking into consideration the economic condition or indigent circumstances of the appellant or petitioner or applicant or such other reason, as the case may be.

(4) The Central Government shall review the fee specified for various purposes after every two years and the Schedule of fee may be amended by a notification.

56. Award of costs in proceedings.- (1) Whenever the Appellate Tribunal deems fit, it may award costs for meeting the legal expenses of the respondent on defaulting party.

(2) The Appellate Tribunal may in suitable cases direct appellant or respondent to bear the cost of litigation of the other side, and in case of abuse of process of court, impose exemplary costs on defaulting party.

CHAPTER IX

INSPECTION OF RECORDS

57. Inspection of the records.- (1) The parties to any case or their counsel may be allowed to inspect the record of the case by making an application in writing to the Registrar accompanied by inspection fee specified in the schedule.

(2) Subject to such terms and conditions as may be specified by the Chairperson by a general or special order, a person who is not a party to the proceeding, may also be allowed to inspect the proceedings after obtaining the permission of the Registrar tn writing.

58. Grant of inspection.- Inspection of records of a pending or decided case before the Appellate Tribunal shall be allowed only on the order of the Registrar.

59. Application for grant of inspection.- (1) Application for inspection of record under sub- rule (1) and sub-rule (2) of rule 57, shall be in the Form V annexed to these rules and presented at the filing counter of the Registry between 10.30 AM and 3.00 PM on any working day and two days before the date on which inspection is sought, unless otherwise permitted by the Registrar.

(2) The Registry shall submit the application with its remarks before the Registrar, who shall on consideration of the same, pass appropriate orders.

(3) Inspection of records of a pending case shall not ordinarily be permitted on the date fixed for hearing of the case or on the preceding day.

60. Fee payable for inspection.- Fee for inspection of records as specified in the Schedule shall be payable by way of demand draft to be drawn in favour of the Pay and Accounts Officer, Ministry of Power, New Delhi on any application for inspection of records of a pending or decided case.

61. Mode of inspection.- (1) On grant of permission for inspection of the records, the Deputy Registrar shall arrange to procure the records of the case and allow inspection of such records on the date and time fixed by the Registrar between 10.30 AM and 12.30 PM and between 2.30 PM and 4.30 PM in the immediate presence of an officer authorized in that behalf .

(2) The person inspecting the records shall not in any manner cause dislocation, mutilation, tampering or damage to the records in the course of inspection.

(3) The person inspecting the records shall not make any marking on any record or paper so inspected and taking notes, if any, of the documents or records inspected may be done only in pencil.

(4) The person supervising the inspection, may at any time prohibit further inspection, if in his opinion, any of the records are likely to be damaged in the process of inspection or the person inspecting the records has violated or attempted to violate the provisions of these rules and shall immediately make a report about the matter to the Registrar and seek further orders from the Registrar and such notes shall be made in column (8) of the Inspection Register.

62. Maintenance of register of inspectlon.- The Deputy Registrar shall cause to maintain a Register for the purpose of inspection of documents or records and shall obtain therein the signature of the person making such inspection on the Register as well as on the application on the conclusion of inspection.

CHAPTER X

APPEARANCE OF LEGAL PRACTITIONERS

63. Appearance of legal practitioners.- Subject to as hereinafter provided, no legal practitioner shall be entitled to appear and act, in any proceeding before the Appellate Tribunal unless he files into Appellate Tribunal a vakalatnama in Form VI annexed to these rules, duly executed by or on behalf of the party for whom he appears.

64. Nomination or engagement of another legal practitioner or accredited energy auditor.- Where a legal practitioner who has filed the Vakalatnama engages or nominates accredited energy auditor or another legal practitioner to appear and argue his client's case but not to act for the client, the Appellate Tribunal may permit such other legal practitioner or accredited energy auditor to appear and argue on an oral request being made before commencement of the proceedings.

65. Consent for engaging another legal practitioner-: A legal practitioner proposing to file a Vakalatnama in any pending case or proceeding before the Appellate Tribunal in which there is already a legal practitioner on record, shall do so only with the written consent of the legal practitioner on record or when such consent is refused, with the permission of the Appellate Tribunal after revocation of Vakalatnama on an application filed in this behalf, which shall receive consideration only after service of such application on the advocate already on record.

66. Restrictions on appearance.- A legal practitioner who has tendered advice in connection with the institution of any case or other proceeding before the Appellate Tribunal or has drawn pleadings in connection with any such matter or has during the progress of any such matter acted for a party, shall not, appear in such case or proceeding or other matter arising there from or in any matter connected therewith for any person whose interest is opposed to that of his former client, except with the prior permission of the Appellate Tribunal.

67. Form and execution of Vakalatnama.- (I) Every Vakalatnama authorising a legal practitioner to plead and act shall be as in Form VI annexed to these rules and the name of the legal practitioner so appointed shall be inserted in the Vakalatnama before it is executed and it shall be dated at the time of its execution and acceptance and its execution shall be attested by an advocate or notary or a gazetted officer serving in connection with the affairs of the Union or of any State in India or a legal practitioner other than the legal practitioner accepting the Vakalatnama.

(2) The authority attesting the Vakalatnama under sub rule (I) shall certify that it has been duly executed in his presence and subscribe his signature giving his name and designation and attestation shall be made only after the name of the legal practitioner is inserted in the Vakalatnama before its execution and when a Vakalatnama is executed by a party who appears to be illiterate, blind or not acquainted with the language of the Vakalatnama, the attester shall certify that the Vakalatnama was read, translated and explained in his presence to the executant, in the language known to such executant, that he seemed to understand it and that he signed or affixed his thumb mark in his presence with full knowledge and understanding.

(3) Every Vakalatnama shall contain an endorsement of acceptance by the legal practitioner in whose favour it is executed and shall also bear his address for service and if the Vakalatnama is in favour of more than one legal practitioner, it shall be signed and accepted by all of them, giving the address for service of any one of them.

68. Restriction on party's right to be heard.- The party who has engaged a legal practitioner to appear for him before the Appellate Tribunal shall not be entitled to be heard in person unless permitted by the Appellate Tribunal.

69. Professional dress for the advocate.- While appearing.before the Appellate Tribunal, the Advocate shall wear the same professional dress as prescribed for appearance before the court or wear a coat with a tie or a close coat.

CHAPTER XI

AFFIDAVITS

70. Title of affidavits.- Every affidavit shall be in Form VII and shall be titled as "In the Appellate Tribunal for Energy Conservation" followed by the cause title of the application or other proceeding in which the affidavit is sought to be used.

71. Form and contents of affidavit.- The affidavit shall conform to the requirements of order XI X, rule 3 of Civil Procedure Code, 1908 (5 of 1908).

72. Persons authorised to attest.- Affidavits shall be sworn or affirmed before any Judicial Magistrate or Civil Judge or Registrar and Deputy Registrar of the Appellate Tribunal or Notary or District Registrar or Sub-Registrar, who shall affix his official seal or the Chief Ministerial Officer of any civil or criminal court in the State or any advocate.

73. Affidavits of illiterate, blind persons.- Where an affidavit is sworn or affirmed by any person who appears to be illiterate; blind or unacquainted with the language in which the affidavit is written, the attestor shall certify that the affidavit was read, explained or translated by him or in his presence to the deponent and that he seemed to understand it, and made his signature or mark in the presence of the attester in Form No. VIII annexed to these rules -

74. Identification of deponent.- If the deponent is not known to the attester, his identity shall be testified by a person known to him and the person identifying shall affix his signature in token thereof.

75. Annexure to the affidavit.- Document accompanying an affidavit shall be referred to therein as Annexure number and the attester shall make the endorsement thereon that this is the document marked putting the Annexure number tn the affidavit and the attester shall sign therein and shall mention his name and designation.

CHAPTER XII

DISCOVERY, PRODUCTION AND RETURN OF DOCUMENTS

76. Application for production of documents, form of summons.- (I) Except otherwise provided hereunder, the discovery or production and return of documents shall be regulated by the provisions of the Code of Civil Procedure, 1908 (5 of 1908).

(2) An application for summons to produce documents shall be on plain paper setting out the document(s) the production of which is sought, the relevancy of the document(s) and in case where the production of a certified copy would serve the purpose, whether application was made to the proper officer and the result thereof.

(3) A summons for production of documents in the custody of a public officer other than a court shall be in Form IX annexed to these rules and shall be addressed to the concerned Head of the Department or such other authority as may be specified by the Appellate Tribunal.

77. Suo motu summoning of documents.- Notwithstanding anything contained in these rules, the Appellate Tribunal may, suo motu, issue summons for production of public documents or other documents in the custody of a public officer.

78. Marking of documents.- (1) The documents when produced shall be marked as follows :-

a) if relied upon by the appellant's or petitioner's side, they shall be numbered as 'A' series;

b) if relied upon by the respondent's side, they shall be marked as 'B' series;

c) the Appellate Tribunal exhibits shall be marked as 'C' series;

(2) The Appellate Tribunal may direct the applicant to deposit in Appellate Tribunal by way of demand draft or Indian Postal Order drawn in favour of the Pay and Accounts Officer, Ministry of Power, New Delhi, a sum sufficient to defray.the expenses for transmission of the records before the summons is issued.

79. Return and transmission of documents- (1) An application for return of the documents produced shall be numbered and such application shall not be entertained after the destruction of the records .

(2) The Appellate Tribunal may, at any time, direct the return of documents produced subject to such conditions as it deems fit.

CHAPTER XIII

EXAMINATION OF WITNESSES AND ISSUE OF COMMISSIONS

80. Procedure for examination of witnesses, issue of Commissions.- The provisions of the Orders XVI and XXVI of the Code of Civil Procedure, 1908 (5 of 1908), shall mutatis mutandis apply in the matter of summoning and enforcing the attendance of any person and examining him on oath and issuing commission for the examination of witnesses or for production of documents.

81. Examination in camera.- The Appellate Tribunal may in its discretion examine any witness in camera.

82 Form of oath or affirmation to witness.- Oath shall be administered to a witness in the following form :

"I do swear in the name of God/solemnly affirm that what I shall state shall be truth, the whole truth and nothing but the truth". '

83. Form of oath or affirmation to interpreter.- Oath or solemn affirmation shall be administered to the Interpreter in the following form before his assistance is taken for examining a witness:

"I do swear in the name of God/ solemnly affirm that I will faithfully and truly interpret and explain all questions put to and evidence given by witness and translate correctly and accurately all documents given to me for translation."

84. Officer to administer oath.- The oath or affirmation shall be administered by the Court Officer or the Commissioner of Oaths.

85. Form for recording of deposition.- (1) The Deposition of a witness shall be recorded as in Form X annexed to these rules.

(2) Each page of the deposition shall be initialed by the Members constituting the Bench.

(3) Corrections if any, pointed out by the witness may, if the Bench or Commissioner is satisfied, be carried out and duly initialed and if not satisfied, a note to that effect be appended at the bottom of the deposition.

86. Numbering of witnesses.- The witnesses called by the applicant or petitioner shall be numbered consecutively as PWs and those by the respondents as R Ws.

87. Grant of discharge certificate.- Witness discharged by the Appellate Tribunal may be granted a certificate in Form XI annexed to these rules, by the Registrar.

88. Witness batta payable.- (1) Where the Appellate Tribunal issues summons to a Government servant to give evidence or to produce documents, the person so summoned may draw from the Government, traveling and daily allowances admissible to him as per rules.

(2) Where there is no provision for payment of traveling Allowances and daily Allowance by the employer to the person summoned to give evidence or to produce documents, he shall be entitled to be paid as batta, (a sum found by the Registrar sufficient to defray the traveling and other expenses), having regard to the status and position of the witness and the party applying for the summons shall deposit with the Registrar the amount of batta as estimated by the Registrar well before the summons is issued and if the witness is summoned as a court witness, the amount estimated by the Registrar shall be paid as per the directions of the Appellate Tribunal.

(3) The aforesaid provisions would govern the payment of batta to the interpreter as well.

89. Records to be furnished to commissioner.- The Commissioner shall be furnished by the Appellate Tribunal with such .of the records of the case as the Appellate Tribunal considers necessary for executing the Commission and original documents shall be furnished only if a copy does not serve the purpose or cannot be obtained without unreasonable expense or delay and delivery and return of records shall be made under proper acknowledgement.

90. Taking of specimen handwriting, signature, etc.-The Commissioner may, if necessary, take specimen of the handwriting, signature or fingerprint of any witness examined before him.

CHAPTER XIV

PRONOUNCEMENT OF ORDERS

91. Order.- The final decision of the Appellate Tribunal on an application or petition before it shall be described as Judgement.

92. Operative portion of order.- All orders or directions of the Bench shall be stated in clear and precise terms in the last paragraph of the order.

93. Corrections.- The Member of the Bench who has prepared the order shall initial air corrections and affix his initials at the bottom of each page.

94. Pronouncement of order.- (1) The Bench shall, as· far as possible, pronounce the order immediately after the hearing is concluded.

(2) When the orders are reserved, the date for pronouncement of order shall be notified in the cause list, which shall be a valid notice of intimation of pronouncement.

(3) Reading of the operative portion of the order in the open court shall be deemed to be pronouncement of the order.

(4) Any order reserved by a Circuit Bench of the Appellate Tribunal may also be pronounced at the principal place of sitting of the Bench in one of the aforesaid modes as exigencies of the situation require.

95. Pronouncement of order by any one Member of the Bench.- (1) Any Member of the Bench may pronounce the order for and on behalf of the Bench.

(2) When an order is pronounced under this rule, the Court Master shall make a note in the order sheet, that the order of the Bench consisting of Chairperson and Members of the Appellate Tribunal was pronounced in open court on behalf of the Bench consisting of two or three Members.

96. Authorising any member to pronounce order.- (1) If the Members of the Bench who heard the case are not readily available or have ceased to be Members of the Appellate Tribunal, the Chairperson of the Appellate Tribunal may authorise any other Member to pronounce the order on his behalf after being satisfied that the order has been duly prepared and signed by all the Members who heard the case and the order pronounced by the Member so authorised shall be deemed to be duly pronounced.

(2) The Member. so authorised for pronouncement of the order shall affix his signature in the order sheet of the case stating that he has pronounced the order as provided in this rule.

(3) If the order cannot be signed by reason of death, retirement or resignation or for any other reason by any one of the Members of the Bench who heard the case, it shall be deemed to have been released from part heard and listed afresh for hearing.

97. Making of entries by Court Master.- Immediately on pronouncement of an order by the Bench, the Court Master shall make necessary endorsement on the case file regarding the date of such pronouncement, the nature of disposal and the constitution of the Bench pronouncing the order and he shall also make necessary entries in the court diary maintained by him.

98. Transmission of order by Court Master.- (1) The Court Master shall immediately on pronouncement of order, transmit the order with the case file to the Deputy Registrar.

(2) On receipt of the order from the Court Master, the Deputy Registrar shall after due scrutiny, satisfy himself that the provisions of these rules have been duly compiled with and in token thereof affix his initials with date on the outer cover of the order and the Deputy Registrar shall thereafter cause to transmit the case file and the order to the Registry for taking steps to prepare copies and their communication to the parties. .

99. Format of order.- (1) All orders shall be neatly and fairly typewritten in double space on one side only on durable foolscap folio paper of metric A-4 size (30.5. cm long and 21.5 cm with left side margin of five centimetres (5 cm) and right side margin of two and a half centimetres (2.5 cm) and corrections, if any, in the order shall be carried out neatly and sufficient space may be left both at the bottom and at the top of each page of the order to make its appearance elegant.

(2) Members constituting the Bench shall affix their signatures in the order of their seniority from right to left.

100. Indexing of case files after disposal.- After communication of the order to the parties or legal practitioners, the official concerned shall arrange the records with pagination and prepare in the index sheet in the form which shall be specified by the Appellate Tribunal and he shall affix initials and then transmit the records with the index initials to the records room.

101. Transmission of files or records or orders- Transmission of files or records of the cases or orders shall be made only after obtaining acknowledgement in the movement register maintained at different section or levels as per the directions of the Registrar.

102. Copies of orders in library.- (1) The officer in charge of the Registry shall send copies of every final order to the library.

(2) Copies of all orders received in each month shall be kept at the library in a separate folder, arranged in the order of date of pronouncement, duly indexed and stitched.

(3) At the end of every year, a consolidated index shall also be prepared and kept in a separate file in the library.

(4) The order folders and the indices may be made available for reference in the library to the legal practitioners.

CHAPTER XV

SUPREME COURT ORDERS

103. Register of Special Leave Petitions or Appeal.- (1) A register in Form XII shall be maintained in regard to Special Leave Petitions or appeals against the orders of the Appellate Tribunal to the Supreme Court and necessary entries thereiri be promptly made by the judicial branch.

(2) The register shall be placed for scrutiny by the Chairperson of the Appellate Tribunal in the first week of every month.

104. Placing of Supreme Court orders before Appellate Tribunal.- Whenever an interim or final order passed by the Supreme Court of India in an appeal or other proceeding preferred against a decision of the Appellate Tribunal is received, the same shall forthwith be placed before the Chairperson and Members for information and kept in the relevant case file and immediate attention of the Registrar shall be drawn to the directions requiring compliance.

105. Registrar to ensure compliance of Supreme Court orders.- It shall be the duty of the Registrar to take expeditious steps to comply with the directions of the Supreme Court.

CHAPTER XVI

MISCELLANEOUS

106. Filing through electronic media.- The Appellate Tribunal may allow filing of appeal, petition or application through electronic media such as online filing and provide for rectification of defects bye- . mail or net and in such filing, these rules shall be adopted as nearly as possible on and from a date to be notified separately and the Chairperson of the Appellate Tribunal may issue instructions in this behalf from time to time.

107. Removal of difficulties and issue of directions.- Notwithstanding anything contained in the rules, wherever the rules are silent or no provision is made, or in case of any consistency in the provision, the Chairperson may issue appropriate directions to remove difficulties and issue such orders or circulars to govern the situation or contingency that may arise in the working of the Appellate Tribunal.

SCHEDULE

[See rule 2(h), rule 20(6), 22(1), rule 55(1)]

(Fees)

Subject of fee	Amount of fee
(i) in respect of appeal under sub-section (2) of section 31 where the respondents are four or less; and where respondents exceed four.	Rupees flfty thousand: an additional fee of rupees five thousand shall be paid for each respondent,
(ii) If proceedings are instituted by more than one appellants/petitioners, or association, fee payable on such appeal/petition.	Rupees fifty thousand.

(iii) Review petition.	Rupees thirty thousand.
(iv) Execution petition.	Rupees five thousand.
(v) Transmission of order or direction to civil.court for execution.	Rupees three thousand.
(vi) For lodging caveat.	Rupees three thousand.
(vii) Interlocutory application.	Rupees one thousand.
(viii) Vakalatnama/authorisation court fee payable	Rupees twenty- five.
(ix) Copying charges for furnishing certified copy.	Rupees twenty- five per page.
(x) One time process fee payable with each appeal/petition/interlocutory application/every proceeding instituted	Rupees two thousand.
(xi) Inspection fee	Rupees five hundred.
(xii) Enclosure/Annexure Court Fee	Rupees Twenty five.

FORM I

[See rule 20]

Memorandum of Appeal preferred under sub-sections (1) and (2) of section 31 of The Energy Conservation Act, 2001.

IN THE APPELLATE TRIBUNAL FOR ENERGY CONSERVATION AT NEW DELHI

APPELLATE JURIDICTION

APPEAL NO. __ OF 200

CAUSE TITLE

Between

AB ……………………….Appellant (s)

And

C. D ………………………Respondent(s)

[including appropriate commission/adjudicating officer]

(with short address)

1. Details of Appeal

[Appeal under section…………..31……..…of the Energy Conservation Act, 2001 against impugned order of the (adjudicating officer) dated …………………passed under section ……………………of the Energy Conservation Act, 2001

2. Date on which the order appealed against is communicated and proof thereof, if any.

3. The address of the appellant for service is as set out hereunder:

   (i) Postal address Including PIN code
   (ii) Phone number
   (iii) E-mail
   (iv) Fax No.
   (v) Mobile number.
   (vi) Address of Counsel with Phone No., Fax No. e-mail and mobile number

4. The address of the respondents for service of all notices in the appeal are as set out hereunder:

   (i) Postal address including PIN code
   (ii) Phone number
   (iii) E-mail
   (iv) Fax number
   (v) Mobile number
   (vi) Address of counsel with phone number, fax number, e-mail and mobile number.

5. Jurisdiction of the Appellate Tribunal·

The appellant declares that the subject matter of the. appeal is within the jurisdiction of this Appellate Tribunal.

6. Limitation

The Appellant/s declare that the appeal is within the period specified in sub-section (2) of section 31 ofthe Act. (Explain how the appeal is within the period prescribed in case the, appeal is preferred after the expiry of 45 days from the. date of order/direction/decision against which this appeal is preferred) and in case the appeal barred by limitation, the number of days of delay should be given along with interlocutory application for condonation of delay.

7. Facts of the case

The facts of the case are given below:

(give here a concise statement of facts in a chronological order followed by elaboration of issues including the question of law arising in the appeal. Each paragraph should deal with, as far as possible, a separate issue).

8. Formulate (i) the-faets-In issue or specify the. dispute between the parties and (ii) summarize the questions of law that arise for consideration in the appeal :

(a) Facts in issue

(b) Question of law

9. Grounds raised with legal provisions.

10. Matters not previously filed or pending with any other court.

The appellant further declares that the appellant had not previously filed any writ petition or suit regarding the matter in respect of which this appeal is preferred before any court or any other authority, nor any such writ petition or suit is pending before any of them.

[In case the appellant previously had filed any such writ petition or suit, the stage at which it is pending and, if decided, the outcome of the same should be specified and a copy of the order should also be annexed].

11. Specify below explaining the grounds for such relief (s) and the legal provisions, if any, relied upon.

12. Details of interim application, if any, preferred along with appeal.

13. Details of appeal/s, if any preferred before this Appellate Tribunal against the same impugned order/direction, by respondents with numbers, dates....... and interim order, if any passed in that appeal (if known).

14. Details of index

[An index Containing the details of the documents in chronological order relied upon is enclosed].

15. Particulars of fee payable and details of bank draft in favour of Pay and Accounts Officer, Ministry of Power; New Delhi. .

In respect of the fee for appeal.

Name of the Bank ………………………………..Branch………………………payable at Delhi. DO No………………Date.

16. List of enclosures:

1.

2.

3 .

4.

17. Whether the order appealed as communicated in original is filed ? If not, explain the reason for not filing the same.

18. Whether the appellant/s is ready to file written submissions/arguments before the first hearinq after serving the copy of the same on respondents.

19. Whether the copy of memorandum of appeal with all enclosures has been forwarded to all respondents and all interested parties, if so, enclose postal receipt/courier receipt in addition to payment of specified process fee.

20. Any other relevant or material particulars I details which the appellant(s) deems necessary to set out.

21. Reliefs sought

In view of the facts mentioned in para 7 above, points in dispute and questions of law set out in para 8, the appellant prays for the following relief (s) :

(a)

(b)

(c)

Dated at…………………………. this ……………………….day of ……………………….20.

Counsel for Appellant(s) **Appellant (s)**

DECLARATION BY APPELLANT

The appellant(s) above named hereby solemnly declare (s) that nothing material has been concealed or suppressed and further declare(s) that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the original(s)/fair reproduction of the originals / true translation thereof.

Verified at ………………………on this at ………………………..day of ……………………20 .

Counsel for Appellant(s) **Appellant (s)**

<u>Verification</u>

……………………………………Name of the appellant) S/o. W/o. D/o. [indicate anyone, as the case may be]…………………… age …………………………..working as…………………………. in the office of ……………………….. resident of…………………… do hereby verify that the contents of the ……………………………….. paras to …………………………are true to my personal knowledge/derived from official record) and para……………………… to ……………………are believed to be true on legal advice and that I have not suppressed any material facts.

Date:

Place:

Signature of the appellant or authorised officer

FORM II

[See Rule 20]

Petition under sections 31 (6)/31A of the Energy Conservation Act,2001 read with

section 121 of the Electricity Act, 2003

BEFORETHE APPELLATE TRIBUNAL FOR ENERGY CONSERVATION

AT NEW DELHI

(Original Jurisdiction)

Original/Original Special Petition No……….. of 20……….

Between

AB ………….Petitioner(s)

And

C.D………………Respondent(s)

[including appropriate commission/adjudicating officer]

(with address)

The petitioner/s above named beg/s to prefer this original petition for issue of orders or instructions or directions under sections 31 (6)/31A of the Act read with section 121 of the Electricity Act, 2003 and state as follows :-

1 . The address for service on the petitioner is…………………..

2. The address for service on respondents appropriate commission/adjudicating officer is /are……………..

3. Whether direction/order/rule/instruction sought for is within jurisdiction of the Appellate/Tribunal under section 31(6)/31 A read with section 121 of the Electricity Act, 2003.

……

4. Set out the details and explain the circumstances under which the present original petition is being moved,

5. Set out the details of representations/demands made on the respondent /appropriate Commission/State designated agency and reply/order received.

……

6. Set out the grievance or prejudice caused to the petitioner and consequences of not issuing directions/orders/instructions prayed for.

7. Set out the basis of claims, legal contentions/grounds based on which reliefs are sought for.

8. Whether proceedings, if any already instituted before other forums and the result of the proceedings.

9 Whether any other remedy is available under the Energy Conservation Act, 2001 or any other statutory provision of law or rule, if so, why not invoked.

(set out in detail)

10. Whether petition in respect of reliefs prayed for any proceeding is pending before the Appellate Tribunal at the instance of respondents/ or any other third party.

11. Particulars of fee payable and details of bank draft in favour of the Pay and Accounts Officer, Ministry of Power, New Delhi.

In respect of the fee for appeal.

Name of the Bank …………………….Branch…………………..payable………………………….

1. DO No………………………. dated

2.

3.

11. List of enclosures and copies filed

(1)

(2)

(3)

(4)

12. Whether the copy of memorandum of petition with all enclosures has been forwarded to all respondents and all interested parties, if so, enclose postal receipt/courier receipt in addition to payment of process fee as specified by these rules.

13. Any other material particular which the petitioner deems relevant for the petition may also be set out.

14. Relief sought for:

(a)

(b)

(c)

Dated at……………………. this day ………………………..of 20.

Counsel for Petitioner(s) **Petitioner(s)**

DECLARATION

The petitioner (s) above named hereby solemnly declare (s) that nothing material has been concealed or suppressed and further declare that the enclosures and typed set of material papers relied upon and filed herewith are original or fair reproduction of originals or true translation thereof.

Verified at …………………dated at ……………….this day ………………of …………..20 .

Counsel for Petitioner(s) **Petitioner(s)**

VERIFICATION

I……………………………………………………………………..………..(Name of the petitioner) S/o.W/o.D/o. (indicate anyone as the case may be)…………………………………………. age ……………………working as……………………………………. in the office of………………………………………………………….. resident of………………………………….. do hereby verify that the contents of the paras ……………………………………..to ………………………………………are true to my personal knowledge / derived from official record) and para………………………………………………….. to ………………………………………………………are believed to be true on legal advice and that I have not suppressed any material facts

Date:

Place:

Signature of the Petitioner or authorised officer

FORM III

[See rule 20]

INTERLOCUTORY APPLICATION

BEFORE THE APPELLATE TRIBUNAL FOR ENERGY CONSERVATION

I A NO……………… OF 20

In

Appeal/Original Petition No……………….. of 20 .

CAUSE TITLE

Set out the Appeal no…………………… of 20

Appeal / Petition short cause title

Set out the Appeal No………………… 20

Cause Title - I nterlocutory Application

Petition for stay/direction/dispense with/condone delay/calling records

The applicant above named state/as follows:

1. Set out the relief (s)
2. Brief facts
3. Basis on which interim orders prayed for
4. Balance of convenience, if any:

(All interlocutory applications shall be supported by an affidavit sworn by the applicant/on its behalf and attested by a Notary Public).

DECLARATION

The applicant above named hereby solemnly declare that nothing material has been concealed or suppressed and further declare that the enclosures and typed set of material papers relied upon and filed herewith are true copies of the originals or fair reproduction of the originals or true translation thereof.

Verified at………………… dated at………………… this day ………………………….of ……………………20 .

Counsel for Applicant **Applicant**

VERIFICATION

………………………………………….(Name of the applicant) S/o.W/o.D/o. (indicate anyone, as the case may be) ……………….age working as…………………………….. in the office of ……………………………resident of ………………………………………………. do hereby verify that the contents of the paras…………………………….. to …………………………………………..are true to my

personal knowledge I derived from official record) and para……………………………………………….. to

……………………………………….are believed to be true on legal advice and that I have not suppressed any material facts.

Date:

Place:

Signature of the Appellant/Petitioner or authorised officer

FORM IV

[See rule 22]

CAVEAT PETITION

Memorandum of Caveat

Before the Appellate Tribunal for Energy Conservation

(Caveat No……………of 20)

CAUSE TITLE

Between

A B : …………………. Caveat or

And

CD ………………….Expected Appellant/Petitioner

Set out details of the order against which appeal/application/petition is expected in the matter of dispute between AB and CD.

2. (a) Address for service on the caveator

(b) Address for service on the Counsel for the caveator

3. Specify the authority who passed the order with reference number and date (enclose copy of order appealed against).

4. Set out the details of expected Appellant (s)/Petitioner (s)

With address

(i)

(ii)

(iii)

5. Prayer: let no orders be passed in the appeal expected to be filed or any interlocutory application that may be preferred by the expected Appellant/Petitioner without service of notice on the caveator.

The caveator undertakes to accept service of appeal or petition or application and appear before this Appellate Tribunal on the date and time at which the appeal/petition/application is moved by Respondent/expected appellant/petitioner.

Dated at New Delhi ……………………………Day of…………………………….. (Month) 20.

Counsel for Caveator **Caveator**

Verification

The caveator above named state and verify tnat.the contents of this caveat lodged are true and correct.

Verified at New Delhi on

This …………………………………..day of…………......20.

Caveator

FORM NO. V

[See rule 59]

Pending/Disposed of

APPELLATE TRIBUNAL FOR Energy Conservation

……………………………. BENCH .

Application No. in of 200………………………………..

Applicant/s/3rd party/Appellant/Petitioner

vs.

Respondent/s

Application for Inspection of documents/records under rule 57

I hereby apply for grant of permission to inspect the documents/records in the above case. The details are as follows :-

1. Name and address of the person seeking inspection :

---

2. Whether he is a party to the case/his legal practitioner and if so, his rank therein.

---

3. Details of the papers/documents sought to be inspected .

---

4. Reasons for seeking the Inspection…………………………

---

5. The date and duration of the inspection sought for………………

---

6. Whether fee is paid and if so, the mode of payment…………………

---

7. If a third party, whether a vakalatnama has been filed with court fee stamp…………….

Verification

I…………………… state that the above facts are true and correct.

Place:

Date:

Applicant

Office Use:

Granted inspection for …………………hours on ………………../rejected.

Registrar

APPELLATE TRIBUNAL FOR ENERGY CONSERVATION

Endorsement after inspection:

I…………………………………………….., the applicant above named inspected the documents/records on ………………..in the presence of Mr ……………………………………….between…………………..to : ……….. Hrs on ………………………………..and inspection is completed/concluded.

Dated……………………day …………………..20.

Applicant/Counsel

Form VI

[See rule 67]

FORM OF VAKALATNAMA

APPELLATE TRIBUNAL FOR ENERGY CONSERVATION ____________ BENCH

Appeal/Petition /No. of 200 …………………………….

Appellant/s

vs

Respondent/s

I………………………………………………………Appellant No…………………………………../Respondent No……………… in the above appeal/petition do hereby appoint and retain Shri…………………………………………………………………………………
………………………………………………………………………………….Advocate(s)/to appear, plead and act for me/us in the above appeal/petition and to conduct and prosecute all proceedings that may be taken in respect thereof and applications for return of documents, enter into compromise and to draw any moneys payable to me/us in the said proceeding and also to appear in all applications for review and for leave to the Supreme Court of India in all applications for review judgment.

Signature of the Party

Place:

Date:

Executed in my presence. "Accepted"

*Signature with date Signature with date

(Name and designation) (Name and designation)

(Address for service on the counsel for

Appellant/Respondent Furnish

Full address…………………………….

Phone no……………………………….

Fax no………………………………….

*The following certification to be given when the party is unacquainted with the language of the vakalatnama or is blind or iIliterate:-

The contents of the vakalatnama were truly and audibly read over/translated into………………..
……………………… English/Hindi……………….. language known to the party executing the vakalatnama and he seems to have understood the same.

Signature with date

(Name and designation)

Fonn VII

[See rule 70]

APPELLATE TRIBUNAL FOR ENERGY CONSERVATION

…………………………..BENCH

Appeal/Petition/No. of 200…………………

Appellant/Applicant

Respondent/s

<u>AFFIDAVIT</u>

I……………………………………. aged ……………………………………years, son/daughter/wife of…………………………

....(name and occupation of the deponent)……………………………………………………

residing at (full address) …………………………………………………………………………..do hereby swear in the name of God/solemnly affirm and state as follows:

Para. 1

Para. 2

Para-. 3

....

....

....

Contents of paragraphs nos……………………………………………….are within my personal knowledge and contents of Paragraphs nos ……………………………………are based on information received by me which I believe the same to be· true (state the source of information wherever possible and the grounds for belief, if any).

....

....

Place:

Date:

Signature of the deponent

Name in Block Letters

No. of corrections on page nos.

Identified by : Before me

*……..

Sworn/solemnly affirmed before me on this the……………………………..day of …………………………200…………………… \

Signature

(Name and designation of the

attesting authority with seal)

"To add endorsement in Form No.

when necessary

APPELLATE TRIBUNAL FOR ENERGY CONSERVATION

FORM VIII

[See rule 73]

Certification when deponent is unacquainted with the language of the affidavit or is blind or illiterate.

Contents of the affidavit were truly and audibly read over translated into………………..

language known to the deponent and he seems to have understood the same

and affixed his signature/mark.

(Signature)

Name and designation with date.

FORM-IX

[See rule 76(3)]

APPELLATE TRIBUNAL FOR ENERGY CONSERVATION

.... BENCH

Appeal/Petition No …………………OF 20……………………

Between

………………………………………….. .Appellant/Petitioner

(By Advocate Shri………………………)

and

……………………….. Respondent/s

(By Advocate Shri………………….)

Under Section 31 A of the Energy Conservation Act, 2001 read with section 120 of Electricity Act 2003 r/w Civil Procedure Code

Whereas the Appellate Tribunal suo motu or on consideration of the request made by Shri .... (Appellant/Petitioner No.) having been satisfied that production of the following documents/records under your control/custody is necessary for proper decision of the above case, you are hereby directed to cause production of the said documents/records before this Appellate Tribunal /forward duly authenticated copies thereof on or before the …………………………….day of ………….20……………………..

(Enter description of documents requisitioned)

Date:

By Order of AppellateTribunal " Registrar

FORM X

[See rule 85]

APPELLATE TRIBUNAL FOR ENERGY CONSERVATION

.... BENCH

Appeal/Petition No ………………………..of 20……………………

Deposition of PW/RW

1. Name:
2. Father's/Mother's/Husband's name:
3. Age:
4. Occupation:
5. Place of residence and address:
6. Name of the officer administering the

Oath I affirmation :

7. Name of the interpreter if any, duly sworn/ solemnly affirmed:

Duly sworn/ solemnly/ affirmed

Examination-in-chief : By

Date:

....

....

Cross examination : By

....

....

Re-examination, if any:

....

(Signature of the witness on each page)

Statement of witness as recorded was read over/translated to the witness, who admitted it to be correct.

Signature of the Member of the Appellate Tribunal with date

FORM NO. XI

[See Rule 87]

CERTIFICATE OF DISCHARGE

Certified that ………………………………appeared before this Appellate Tribunal as a witness/in/ No………………………………..of 20.................................. on behalf of the appellant/petitioner/respondent/as court witness on this ……………….. day of ………………200………………………and that he was relieved at ……………………..on………………………

He was paid/not paid any travelling allowance and daily allowance/Batta of

Rs ……………………………………..

Date:

Signature of the Registrar

(Seal of the Appellate Tribunal)

FORM NO.XII

[See rule 103]

Appellate Tribunal for Energy Conservation

Register of Special Leave Petition (SLPs) Appeals to Supreme Court (SC)

Sl. No	No. of SLP/appeal before the Supreme Court	No. of the case appealed against	Name of the Applicant/ Respondent	Date of dispatch of records to SC	Date of receipt of records from SC	SLP dismissed/ allowed with date	Interim Direction If any, with date	Final order in the appeal with date	Direction If any, for compliance by the Appellate Tribunal	Steps taken for compliance	Re ma rks

[F. No. 10/2/11-EC]

JYOTI ARORA, Jt. Secy.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,
ಆರ್. ಆಂಜಿನಿ,
ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ
ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,
ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 100

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಸಚಿವಾಲಯ

ಅಧಿಸೂಚನೆ

ಸಂಖ್ಯೆ: ಸಂವ್ಯಶಾಇ 75 ಕೇನಿಪ್ರ 2012, ಬೆಂಗಳೂರು, ದಿನಾಂಕ: 7ನೇ ಡಿಸೆಂಬರ್ 2012.

2012ನೇ ಸಾಲಿನ 30–08–2012 ದಿನಾಂಕದ ಭಾರತ ಸರ್ಕಾರದ ಗೆಜೆಟ್‌ನ ವಿಶೇಷ ಸಂಚಿಕೆಯ ಭಾಗ–II ಸೆಕ್ಷನ್ 3(ii)ರಲ್ಲಿ ಪ್ರಕಟವಾದ ಈ ಕೆಳಕಂಡ S.O.2005(E) ದಿನಾಂಕ: 30–08–2012 ಅನ್ನು ಸಾರ್ವಜನಿಕರ ಮಾಹಿತಿಗಾಗಿ ಕರ್ನಾಟಕ ರಾಜ್ಯಪತ್ರದಲ್ಲಿ ಮರು ಪ್ರಕಟಿಸಲಾಗಿದೆ.

MINISTRY OF FINANCE

(Department of Revenue)

(CENTRAL BOARD OF DIRECT TAXES)

NOTIFICATION

New Delhi, the 30th August, 2012

INCOME-TAX

S.O. 2005 (E).- In exercise of the powers conferred by sub-section (9) of section 92CC-read with section 295 of the Income-tax Act, 1961 (43 of 1961), the Central Board of Direct Taxes hereby makes the following rules further to amend the Income-tax Rules, 1962, namely:-

1. (1) These rules may be called the Income-tax (10th Amendment) Rules, 2012

(2) They shall come into force on the date of their publication in the official Gazette.

2. In the Income-tax Rules, 1962 (hereafter referred to as the principal rules)

(a) after rule 10E, the following rule shall be inserted, namely.-

"Advance Pricing Agreement Scheme

Meaning of expressions used in matters in respect of advance pricing agreement

10F. For the purposes of this rule and rules 10G to 10T,

(a) 'agreement' means an advance pricing agreement entered into between the Board and the applicant, with the approval of the Central Government as referred to in sub-section (1) of section 92CC of the Act;

(b) "application" means an application for advance pricing agreement made under rule 10 I;

(c) "bilateral agreement" means an agreement between the Board and the applicant, subsequent to, and based on, any agreement.

referred to in rule 44 GA between the competent authority in India with the competent authority in the other country regarding the most appropriate transfer pricing method or the arms' length price;

(d) "competent authority in India" means an officer authorised by the Central Government for the purpose of discharging the functions as such for matters in respect of any agreement entered into under section 90 or 90A of the Act;

(e) "covered transaction" means the international transaction or transactions for which agreement has been entered into;

(f) "critical assumptions" means the factors and assumptions that are so critical and significant that neither party entering into an agreement will continue to be bound by the agreement, if any of the factors or assumptions is changed;

(g) "most appropriate transfer pricing method " means any of the transfer pricing method, referred to in sub-section (1) of section 92C of the Act, being the most appropriate method, having regard to the nature of transaction or class of transaction or class of associated persons or function performed by such persons or such other relevant factors prescribed by the Board under rule lOB and lOC;

(h) "multilateral agreement" means an agreement between the Board and the applicant, subsequent to, and based on, any agreement referred to in rule 44GA between the competent authority in India with the competent authorities in the other countries regarding the most appropriate transfer pricing method or the arms' length price;

(i) "tax treaty" means an agreement under section 90, or section 90A, of the Act for the avoidance of double taxation;

(j) "team" means advance pricing agreement team consisting of income-tax authorities as constituted by the Board and including such number of experts in economics, statistics, law or any other field as may be nominated by the Director General of Income Tax (International Taxation);

(k) "unilateral agreement" means an agreement between the Board and the applicant which is neither a bilateral nor multilateral agreement.

Persons eligible to apply

10G Any person who -

(i) has undertaken an international transaction; or

(ii) is contemplating to undertake an international transaction,

shall be eligible to enter into an agreement under these rules.

Pre-filing Consultation

10H

1. Every person proposing to enter into an agreement under these rules shall, by an application in writing, make a request for a pre-filing consultation.
2. The request for pre-filing consultation shall be made in Form No. 3 'CEC to the Director General of Income Tax (International Taxation).
3. On receipt of the request in Form NO.3 CEC, the team shall hold prefiling consultation with the person referred to in rule lOG.
4. The competent authority in India or his representative shall be associated in pre-filing consultation involving bilateral or multilateral agreement.

5. The pre-filing consultation shall, among other things,-
   (i) determine the scope of the agreement;
   (ii) identify transfer pricing issues;
   (iii) determine the suitability of international transaction for the agreement;
   (iv) discuss broad terms of the agreement.

(6) The pre-filing consultation shall-
   (i) not bind the Board or the person to enter into an agreement or initiate the agreement process;
   (ii) not be deemed to mean that the person has applied for entering into an agreement.

Application for advance pricing agreement

10 I

1. Any person, who has entered into a pre-filing consultation as referred to in rule 10H may, if desires to enter into an agreement furnish an application in Form No.3 CED alongwith the requisite fee.
2. The application shall be furnished to Director General of Income Tax (International Taxation) in case of unilateral agreement and to the competent authority in India in case of bilateral or multilateral agreement.
3. Application in Form NO.3 CED may be filed by the person referred to in rule lOG at any time-
   (i) before the first day of the previous year relevant to the first assessment year for which the application is made, in respect of transactions which are of a continuing nature from dealings that are already occurring; or
   (ii) before undertaking the transaction in respect of remaining transactions.

(4) Every application in Form No.3 CED shall be accompanied by the proof of payment of fees as specified in sub-rule (5).

(5) The fees payable shall be in accordance with following table based on the amount of international transaction entered into or proposed to be undertaken in respect of which the agreement is proposed:

Amount of international transaction entered into or proposed to be undertaken in respect of which agreement is proposed during the proposed period of agreement.	Fee
Amount not exceeding Rs. 100 crores	10 lacs
Amount not exceeding Rs. 200 crores	15 lacs
Amount exceeding Rs. 200 crores	20 lacs

Withdrawal of application for agreement

10 J

1) The applicant may withdraw the application for agreement at any time before the finalisation of the terms of the agreement.
2) The application for withdrawal shall be in Form No. 3CEE.
3) The fee paid shall not be refunded on withdrawal of application by the applicant. .

Preliminary processing of application

10K

1) Every application filed in Form No. 3CED shall be complete in all respects and accompanied by requisite documents.
2) If any defect is noticed in the application in Form No. 3CED or if any relevant document is not attached thereto or the application is not in accordance with, understanding reached in pre-filing consultation referred to in rule 10H, the Director General of Income-tax (International Taxation) (for unilateral agreement) and competent authority in India (for bilateral or multilateral agreement) shall serve a deficiency letter on the applicant before the expiry of one month from the date of receipt of the application.
3) The applicant shall remove the deficiency or modify the application within a period of fifteen days from the date of service of the deficiency lefter or within such further period which, on an application made in this behalf, may be extended, so however, that .the total period of removal of deficiency or modification does not exceed thirty days.
4) The Director General of Income Tax (International Taxation) or the competent authority in India, as the case may be, on being satisfied, may pass an order providing that application shall not be allowed to be proceeded with if the application is defective and defect is not removed by applicant in accordance with sub-rule (3).

5) No order under sub-rule (4) shall be passed without providing an opportunity of being heard to the applicant and if an application is not allowed to be proceeded with, the fee paid by the applicant shall be refunded.

Procedure

10 L

1) If the application referred to in rule 10K has been allowed to be proceeded with, the team or the competent authority in India or his representative shall process the same in consultation and discussion with the applicant in accordance with provisions of this rule.

2) For the purpose of sub-rule (1), it shall be competent for the team or the competent authority in India or its representative to-

i. hold meetings with the applicant on such time and date as it deem fit;

ii. call for additional document or information or material from the applicant;

iii. visit the applicant's business premises; or

iv. make such inquiries as it deems fit in the circumstances of the case.

3) For the purpose of sub-rule (1), the applicant may, if he considers it necessary, provide further document and information for consideration of the team or the competent authority in India or his representative.

4) For bilateral or multilateral agreement, the competent authority shall forward the application to Director General of Income Tax (International Taxation) who shall assign it to one of the teams.

5) The team, to whom the application has been assigned under sub-rule (4), shall carry out the enquiry and prepare a draft report which shall be forwarded by the Director General of Income Tax (International Taxation) to the competent authority in India.

6) If the Applicant makes a request for bilateral or multilateral agreement in its application, the competent authority in India shall in addition to the procedure provided in this rule invoke the procedure provided in the rule 44 GA

7) The Director General of Income Tax (International Taxation) (for unilateral agreement) or the competent authority in India (for bilateral or multilateral agreement) and the applicant shall prepare a proposed mutually agreed draft agreement enumerating the result of the process referred to in sub-rule (1) including the effect of the arrangement referred to in sub-rule (5) of rule 44GA which has been accepted by the applicant in accordance with sub-rule (8) of the said rule.

8) The agreement shall be entered into by the Board with the applicant after its approval by the Central Government.

9) Once an agreement has been entered into the Director General of Income Tax (International Taxation) or the competent authority in India, as the case may be, shall cause a copy of the agreement to be sent to the Commissioner of Income Tax having jurisdiction over the assessee.

Terms of the agreement

10M

(1) An agreement may among other things, include -

(i) the international transactions covered by the agreement;

(ii) the agreed transfer pricing methodology, if any;

(iii) determination of arm's length price, if any;

(iv) definition of any relevant term to be used in items (ii) or (iii);

(v) critical assumptions;

(vi) the conditions if any other than provided In the Act or these rules.

2) The agreement shall not be binding on the Board or the assessee if there is a change in any of critical assumptions or failure. to meet conditions subject to which the agreement has been entered into.

3) The binding effect of agreement shall cease only if any party has given due notice of the concerned other party or parties.

4) In case there is a change in any of the critical assumptions or failure to meet the conditions subject to which the agreement has been entered into, the agreement can be revised or cancelled, as the case may be.

5) The assessee which has entered into an agreement shall give a notice in writing of such change in any of the critical assumptions or failure to meet conditions to the Director General of Income Tax (International Taxation) as soon as it is practicable to do so.

6) The Board shall give a notice in writing of such change in critical assumptions or failure to meet conditions to the assessee, as soon as it comes to the knowledge of the Board.

7) The revision or the cancellation of the agreement shall be In accordance with rules 10Q and 10R respectively.

Amendments to Application

10 N

1) An applicant may request in writing for an amendment to an application at any stage, before the finalisation of the terms of the agreement .

2) The Director General of Income Tax (International Taxation) (for unilateral agreement) or the competent authority in India (for bilateral or multilateral agreement) may, allow the amendment to the application, if such an amendment does not have effect of altering the nature of the application as originally filed.

3) The amendment shall be given effect only if it is accompanied by the additional fee, if 'any, necessitated by such amendment in accordance with fee as provided in rule 101.

Furnishing of Annual Compliance Report

10 O

(1) The assessee shall furnish an annual compliance report to Director General of Income Tax (international Taxation) for each year covered in the agreement.

(2) The annual compliance report shall be in Form 3CEF.

(3) The annual compliance report shall be furnished in quadruplicate, for each of the years covered in the agreement, within thirty days of the due date of filing the income tax return for that year, or within ninety days of entering into an agreement, whichever is later.

(4) The Director General of Income Tax (International Taxation) shall send one copy of annual compliance report to the competent authority in India, one copy to the Commissioner of Income Tax who has the jurisdiction over the income-tax assessment of the assessee and one copy to the Transfer Pricing Officer having the jurisdiction over the assessee.

Compliance Audit of the agreement

10 P

(1) The Transfer Pricing Officer having the jurisdiction over the assessee shall carry out the compliance audit of the agreement for each of the year covered in the agreement.

(2) For the purposes of sub-rule (1), the Transfer Pricing Officer may require -

(i) the assessee to substantiate compliance with the terms of the agreement, including satisfaction of the critical assumptions, correctness of the supporting data or information and consistency of the application of the transfer pricing method;

(ii) the assessee to submit any information, or document, to establish that the terms of the agreement has been complied with.

(3) The Transfer Pricing Officer shall submit the compliance audit report, for each year covered in the agreement, to the Director General of Income Tax (International Taxation) in case of unilateral agreement and to the competent authority in India, in case of bilateral or multilateral agreement, mentioning therein his findings as regards compliance by the assessee with terms of the agreement.

(4) The Director General of Income Tax (International Taxation) shall forward the report to the Board in a case where there is finding of failure on part of assessee to comply with terms of agreement and cancellation of the agreement is required.

(5) The compliance audit report shall be furnished by the Transfer Pricing Officer within six months from the end of the month in which the Annual Compliance Report referred to in rule 10 0 is received by the Transfer Pricing Officer.

(6) The regular audit of the covered transactions shall not be undertaken by the Transfer Pricing Officer if an agreement has been entered into under rule l0L except where the agreement has 'been cancelled under rule lOR.

Revision of an agreement

10 Q

(1) An agreement, subsequent to it having been entered into, may be revised by the Board, if.-

a) there is a change in critical assumptions or failure to meet a condition subject to which the agreement has been entered into;

b) there is a change in law that modifies any matter covered by the agreement but is not of the nature which renders the agreement to be non binding ; or

c) there is a request from competent authority in .the other country requesting revision of agreement, in case of bilateral or multilateral agreement.

(2) An agreement may be revised by the Board either suo-moto or on request of the assessee or the competent authority in India or the Director General of Income Tax (International Taxation).

(3) Except when the agreement is proposed to ·be revised on the request of the assessee, the agreement shall not be revised unless an opportunity of being heard has been provided to the assessee and the assessee is in agreement with the proposed revision.

(4) In case the assessee is not in agreement with the proposed revision the agreement may be cancelled in accordance with rule-lOR .

(5) In case the Board is not in agreement with the request of the assessee for revision of the agreement, the Board shall reject the request in writing giving reason for such rejection.

(6) For the purpose of arriving at the agreement for the proposed revision, the procedure provided in rule 10 L may be followed so for as they apply .

(7) The revised agreement shall include the date till which the original agreement is to apply and the date from which the revised agreement is to apply.

Cancellation of an agreement

10 R (1) An agreement shall be cancelled by the Board for any of the following reasons:

(i) the compliance audit referred to in rule lOP has resulted in the finding of failure on the part of the assessee to comply with the terms of the agreement; ,

(ii) the assessee has failed to file the annual compliance report in time;

(iii) the annual compliance report furnished by the assessee contains material errors; or

(iv) the agreement is to be cancelled under sub-rule (4) of rule lOQ.

(2) The Board shall give an opportunity of being heard to the assessee, before proceeding to cancel an application.

(3) The competent authority in India shall communicate with the competent authority in the other country or countries and provide reason for the proposed cancellation of the agreement in case at bilateral or multilateral agreement.

(4) The order of cancellation of the agreement shall be in writing and shall provide reasons for cancellation and for non acceptance of assessee's submission, if any.

(5) The order of cancellation shall also specify the effective date of cancellation of the agreement, where applicable.

(6) The order under the Act. declaring the agreement as void ab initio, on account of fraud or misrepresentation of facts, shall be in writing and shall provide reason for such declaration and for non acceptance of assessee's submission, if any.

(7) The order of cancellation shall be intimated to the Assessing Officer and the Transfer Pricing Officer, having jurisdiction over the assessee.

Renewing an agreement

10 S Request for renewal of an agreement may be made as a new application for agreement. using the same procedure as outlined in these rules except pre filing consultation as refered to in rule lOH.

Miscellaneous

10 T

(1) Mere filing of a application for an agreement under these rules shall not prevent the operation of Chapter X of the Act for determination of arms length price under that Chapter till the agreement is entered into.

(2) The negotiation between the competent authority in India and the competent authority in the other country or countries, in case of bilateral or multilateral agreement, shall be carried out in accordance with the provisions of the tax treaty between India and the other country or countries.".

(b) after rule 44G of the principal rules, the following rule shall be inserted, namely.-

"Procedure to deal with requests for bilateral or multilateral advance pricing agreements.

44 GA

(1) Where a person has made request for a bilateral or multilateral advance pricing agreement in an application filed in Form NO.3 CED in accordance with rule 10 I, the request shall be dealt with subject to provisions of this rule.

(2) The process for bilateral or multilateral advance pricing agreement shall not be initiated unless the associated enterprise situated outside India has initiated process of advance pricing agreement with the competent authority in the other country.

(3) The competent authority in India shall, on intimation of request of the applicant for a bilateral or multilateral agreement, consult and ascertain willingness of the competent authority in other country or countries, as the case may be, for initiation of negotiation for this purpose.

(4) In case of willingness of the competent authority in other country or countries, as the case may be, the competent authority in India shall enter into negotiation in this behalf and endeavour to reach a set of terms which are acceptable to the competent authority in India and the competent authority in the other country or countries, as the case may be.

(5) In case of an agreement after consultation, the competent authority in India shall formalise a mutual agreement procedure arrangement with the competent authority in other country or countries, as the case may be, and intimate the same to the applicant.

(6) In case of failure to reach agreement on such terms as are mutually acceptable to parties mentioned in sub-rule 4, the applicant shall be informed of the failure to reach an agreement with the competent authority in other country or countries.

(7) The applicant shall not be entitled to be part of discussion between competent authority in India and the competent authority in the other country or countries, as the case may be; however the applicant can communicate or meet the competent authority in India for the purpose of entering into an advance pricing agreement.

(8) The applicant shall convey acceptance or otherwise of the agreement within thirty days of it being communicated.

(9) The applicant, in case the agreement is not acceptable may at its option continue with process of entering into an advance pricing agreement without benefit of mutual agreement process or withdraw application in accordance with rule 10 J".

(c) In Appendix-II of the principal rules, after Form No.3 CEB, the following Forms shall be inserted, namely: -

"Form No.3 CEC"

[See sub-rule (2) of rule 10 H]

Application for a pre-filing meeting

To,

The Director General of Income Tax (International Taxation)

New Delhi.

Sir/Madam,

I propose to apply for an Advance Pricing Agreement. In this regard give below the necessary particulars for a pre-filing meeting:

1. Particulars of the applicant:
   a. Full name of the applicant:
   b. Permanent account number:
   c. Address of the applicant:
   d. Location (s) of the business enterprises in India:
   e. Details of applicant authorized representative:
   f. Address for communication:
   g. Email id and the contact numbers of the person with whom correspondence is required to be made:
2. The global structure of the applicant's group and the industry in which it operates:
3. Names of all the associated enterprises (AE's) with which international transactions have been either undertaken or proposed to be undertaken:
4. Name of country(s) in which (AE's) is located:
5. Business model and overview of the applicant's business operations in prior 3 years:
6. Functional and Risk Profile of the applicant and associated enterprises:
7. a. Details of all the international transactions proposed to be covered in the APA:
   b. Value of such international transactions covered under Transfer Pricing audit in prior 3 years:

8 Details of all other international transactions not proposed to be covered in the APA:

9. Type of APA proposed:

a. Are you proposing a unilateral APA? Yes/ No

b. If yes the reasons for the same:

c. Are you proposing a Bilateral or Multilateral AP A? Yes/ No

d. If yes, provide the names of the country (ies) in which the associated enterprises are located:

10. Number of years for which APA is proposed to be applied:
11. Proposed transfer pricing methodology to be used with supporting documentation:
12. Identification of third party comparable:
13. Details of arm I s length price or profit level indicator:
14. Details of critical assumptions, that the applicant considers, may affect the business or the transfer pricing methodology:
15. The history of the Competent Authority issues, requests, and settlements:
16. History of the transfer pricing audits, assessments and present status of appeals:
17. Names and designation of the representatives who would be appearing before the authorities for pre-filing discussions:

Any other relevant information:

I declare that to the best of my knowledge and belief, the information furnished in the application is correct and truly stated.

Yours faithfully,

Place:

Date:

Applicant

Notes:

1. The application must be filed in triplicate.
2. It the space provided for answering any item in the application ·is found insufficient, separate enclosures may be used for the purpose. These enclosures should be signed by the person authorised to sign the application.
3. In case the pre-filing meeting is requested on an anonymous basis, no names of the applicant or associated enterprises are to be given.
4. With regard to details of all the international transactions proposed to be covered in the APA, please furnish agreements with associated enterprises, if any, relating to the international transactions along with the reasons for covering these transactions in AP A.
5. In case the applicant is applying for a Bilateral or Multilateral APA, the applicant must state whether India has an existing comprehensive DTAA with such country (ies). It may also be verified whether such country (ies) has APA program in place?
6. In case the pre-filing request is on anonymous basis, details of the representatives of the applicant who would be appearing before the authorities for pre-filing discussions must be furnished.

"Form No.3 CED"

[See sub-rule (1) of rule 10 I]

Application for an Advance Pricing Agreement

To,

The Competent Authority of India

or

Director General of Income Tax (International Tax)

New Delhi

Sir/Madam,

This is to state that ……………………………….. (Name of the Applicant) ……………… wishes to negotiate an APA with the Central Board of Direct Taxes. I am submitting herewith the necessary particulars hereunder:

I. General

1. Particulars of the applicant:
   a. Full name of the applicant:
   b. Permanent Account Number:
   c. Address of the applicant:
   d. Address for communication:
   e. Location(s) of the business enterprises in India:
   f. Email id and the contact numbers of the person with whom correspondence is required to be made:
   g. Names and designation of the authorised representatives who would be appearing before the authorities for negotiations of the APA:
2. Whether pre-filing discussions were sought by the applicant? If yes, please furnish:
   a. Date of application for pre-filing meeting:
   b. Date of pre-filing meeting(s) with the APA Team:
3. Name(s) of the Associated Enterprises with whom the APA is requested for:
4. Name of the country(ies) in which the associated enterprises mentioned in (3) above are located:
5. a. Are you applying for a Unilateral, Bilateral or Multilateral APA: Unilateral/Bilateral/Multilateral
   b. If you are applying for a Bilateral or Multilateral APA have the Associated Enterprises applied for APA with the Competent Authority in the country of its residence?: Yes/ No
   c. If yes, enclose evidence of furnishing such application with the other Competent Authority:
   d. If no, by what date the application is proposed to be furnished to the other Competent Authority:
   e. If the application is for Unilateral APA and it involves international transactions with an entity located in a jurisdiction with which India has an 'agreement under section 90 or 90A of the Act for avoidance of double taxation, kindly provide explanation for why the request is not for bilateral or multilateral AP A.
6. Particulars of Fee paid by the applicant: Amount in Rs.
   Challan No:
   Dated:
7. Period of APA proposed along with the date from which APA is sought to be applicable:
8. Details of the international transactions proposed to be covered in the APA (Description of the property or services to which the proposed APA relates):
9. Proposed Transfer Pricing Method(s): -
10. Proposed terms and conditions, and critical assumptions, for the APA:
11. History and background of the applicant and the associated enterprise:
12. General description of business and products/services:
13. Multinational structure, organizational arrangement, operational set-up, including major transaction flows:

14. Identify all other transaction flows of the multinational enterprise (volumes, directions and amounts) that may have an impact on the pricing of the covered transactions:

15. Functional currency for each entity and the currency which is used for the proposed transactions to be covered under the APA:

16. Accounting and costing system, policies, procedures, and practices, including any significant financial and tax accounting differences that may affect the TPMs:

II. Functional analysis

17. Detailed functional analysis of the applicant and all relevant entities with respect to the covered transactions:

18. Business strategies - current and future Budget statements, projections and business plans for future period covered by proposed APA, general business and industry trends, future direction/business strategy including R&D, production, and marketing:

19. Financial and operating information, including corporate annual reports:

    (Please enclose copies)

a. Financial statements on a consolidated and unconsolidated basis for the prior five years, or' the most recent business cycle as appropriate (Also provide interim statements for the most recent period prior to the date of the submission) :

b. Income tax returns and related supporting schedules for the prior three years including Form 3CEB:

c. Operating data (gross and net) segmented by product line, division, unit, and geographic region for the prior five years, or the most recent business cycle as appropriate:

20. Relevant marketing and financial studies:

    (Please enclose copies)

21. Copies of all relevant intercompany agreements (pricing, cost sharing, licensing, distributorship etc.):

    (Please enclose copies)

III. Industry and market analyses

22. Detailed industry analysis:

    a. Comprehensive description of industry as well as generally accepted industrial and commercial practices:

    b. Identification and general profile of competitors, including respective market shares:

    c. Industry and general business statistics, financial ratios, and analyses/studies:

    d. Critical success factors:

23. Detailed analysis of ,the markets for all/ countries involved:

IV. Transfer pricing background

24. Discussion of relevant legal considerations and requirements as per:

    a. Indian law

    b. Foreign law.

    c. Income tax treaty between India and the foreign country

25. Discussion of transfer pricing methodologies, policies, and practices used by the applicant and associated enterprises for the covered transactions during the past three years, or business cycle as appropriate:

26. Discussion of relevant rulings, APAs/BAPAs/ MAPAs, and other similar arrangements entered into with foreign tax administrations, for transfer pricing or other valuation bases, or other taxation matters entered into by the applicant (or its associated enterprises) and Indian or foreign tax administrations:

27. Discussion of relevant foreign income tax audit, appeals, judicial and competent authority history:

28. Discussion of relevant foreign income tax audit, appeals, judicial and competent authority history:

29. Discussion of un-assessed taxation years (Indian and foreign) and related outstanding tax, legal, and other pertinent issues:

V. Transfer Pricing Methodology analysis:

30. Provide all information, including detailed analyses and explanations needed to establish the appropriateness of a proposed TPM, in accordance with transfer pricing regulations as contained in the Indian Income Tax law:

31. Discussion and analysis of each transfer pricing method, applied or rejected, for each covered transaction. In particular provide details on accepted or rejected internal comparables. (Indicate assumptions, strategies, and policies that may have influenced the acceptance or rejection of each TPM):

32. Summary of selected TPMs and secondary TPMs, if used as a sanity check:

VI. Impact of proposed TPMs

33. Application of the proposed TPMs to the covered transactions for the three prior years operations or the most recent business cycle, and discuss results:

34. Application of the proposed TPMs to the time period applicant wants the APA to cover and discuss results:

35. Discussion and quantification of the variance, if any, from the methodology applied in section IV:

I declare that to the best of my knowledge and belief, the information furnished in the application is correct and truly stated.

Place:

Date:

Yours faithfully,

Applicant

Notes:

1. Bilateral or multilateral APA application shall be filed with the Competent -, Authority i.e. the Joint Secretary FT& TR-I, New Delhi in triplicate.
2. Unilateral APA application shall be filed with the Director General of Income Tax (International Taxation), New Delhi in triplicate.
3. If the space provided for answering any item in the application is found insufficient, separate enclosures may be used for the purpose. These enclosures should be signed by the person authorised to sign the application.
4. The fee shall be computed in accordance with the sub-rule (5) of Rule 10 I.
5. The application shall accompany with all the relevant documents.

"Form No.3 CEE"

[See sub-rule (2) of rule 1 0 J]

Application for withdrawal of APA request

To,

The Competent Authority of India, or

The Director General of Income Tax (International Taxation),

New Delhi.

Sir/Madam,

This is to state that ……………………………..{Name of the Taxpayer) had filed an application for Unilateral/Bilateral/Multilateral APA on ... dd/mm/yyyy. For the reasons stated below, the application is hereby withdrawn:

I declare that to the best of my knowledge and belief, the information furnished with regard to the withdrawal of the application is correct and truly stated and I fully understand that the fee paid by me under Rule 10 I of Income-tax Rules shall not be refunded.

Yours faithfully,

Place:

Date: Applicant

Notes:

1. The Withdrawal Application must be filed in triplicate.
2. The Withdrawal Application shall be filed before the authority, before whom the application for APA was made.
3. If the space provided for answering any item in the application is found insufficient, separate enclosures may be used for the purpose, These' enclosures should be signed by the person authorised to sign the application.

"Form No. 3 CEF"

[See sub-rule (2) of rule 10 0]

Annual Compliance Report on Advance Pricing Agreement

To,

The Director General of Income Tax (International Taxation)

New Delhi

Sir/Madam,

I am submitting herewith Annual Compliance Report for the period beginning from dd/mm/yyyy to dd/mm/yyyy for Advance Pricing Agreement entered into between (Name of the taxpayer) and the Central Board of Direct Taxes, vide APA Reference No. --------------------dated ----- In this regard I give below the necessary information:

1. Particulars of the taxpayer:
   a. Full name of the Taxpayer:
   b. Permanent Account Number:
   c. Address of the Taxpayer:
   d. Address for communication:
   e. Email id and the contact numbers of the person for correspondence:
2. Type of APA entered into:
   a. Have you entered into a unilateral APA or Bilateral APA or Multilateral APA? Unilateral/ Bilateral/Multilateral
   b. If you have entered into a Bilateral APA or Multilateral APA, provide the names of the country (ies) with which the APA has been entered into.
3. Name(s) of the associated enterprise(s) with which international transactions have been undertaken during the year.
4. Details of Covered Transactions:
   a. Nature of Covered Transaction:
   b. Amount of Covered Transaction:
   c. Country(ies) involved:
   d. Agreed transfer pricing method:
   e. Agreed profit level indictor: f. Actual result achieved:
   g. Adjustment required:
   h. How the adjustment if any is reflected in the income tax return:
5. Are there any changes in the business model of the tax payer in the current financial year as compared to:
   a. Immediately preceding year:
   b. Year immediately preceding to the first year to which APA is applicable: .
6. Are there any changes in the Functional and Risk Profile of the taxpayer and the associated enterprises in the current financial year as compared to:

a. Immediately preceding year:

b. Year immediately preceding to the first year to which APA is applicable:

7. Transfer pricing methodology:

a. Agreed upon in the APA:

b. Followed during the year to justify the arm's length price of the international transactions covered by APA:

c. Variations between (a) and (b) above, if any:

d. Reasons for variations:

8. Critical assumptions:

a. Agreed upon in the APA:

b. Whether the critical assumptions have been met during the year or there has been a change in critical assumptions:

c. Reasons for not meeting the critical assumptions or change in critical assumptions:

9. Are there any changes in the organisational structure of the tax payer group by way of amalgamation, acquisition, merger, demerger or sale of business or by any other methods? If yes, please furnish complete details thereof and show its impact on the critical assumptions agreed upon in the APA:

10. Specify all other terms and conditions agreed upon in the APA and show whether they have been complied with. In case of non compliance, furnish the reasons thereof:

I declare that I have examined the information contained in this APA Annual Compliance Report, including the accompanying documents, and to the best of my knowledge and belief, the facts presented within this report and accompanying documents are true, comprehensive and accurate.

Yours faithfully,

Place:

Date:

(Name of the Tax payer)

Notes:

1. The Annual Compliance Report shall be filed quadruplicate.
2. The Annual Compliance Report shall be filed for every year covered in the APA Separate report shall be filed for each year.
3. The information relating to "Covered Transaction" in item No.4 above is required to be furnished for each covered transaction separately.
4. Please attach all documents as agreed upon in the APA to justify the transfer pricing methodology and computation of arm's length price.".

[Notification No. 36/2012/F. No. 133/5/2012-S0 (TPL)]

ASHISH KUMAR, Director (Tax Policy and Legislation)

Note : The principal rules were published vide Notification No. S.O. 969 (E), dated the 26th March, 1962 and last amended by Income tax (9th Amendment) Rules, 2012 vide Notification No. S.O. 1979(E), dated 28th August, 2012.

ಕರ್ನಾಟಕ ರಾಜ್ಯಪಾಲರ ಆಜ್ಞಾನುಸಾರ ಮತ್ತು ಅವರ ಹೆಸರಿನಲ್ಲಿ,

ಆರ್. ಆಂಜಿನಿ,

ಸಹಾಯಕ ಪ್ರಾರೂಪಕಾರ ಮತ್ತು ಪದನಿಮಿತ್ತ

ಸರ್ಕಾರದ ಉಪ ಕಾರ್ಯದರ್ಶಿ,

ಸಂಸದೀಯ ವ್ಯವಹಾರಗಳು ಮತ್ತು ಶಾಸನ ರಚನೆ ಇಲಾಖೆ.

P.R. 102